

(United States)

1. General. These Standard Terms and Conditions of Sale ("**Terms of Sale**") are applicable to the person, firm, company or other purchasing entity ("**Buyer**"), and DINAMIC OIL NORTH AMERICA Inc. and/or its Affiliates ("**DONA**"), for items ordered by Buyer from DONA in whatever form or quantity ("**Goods**") within the United States. Any other document(s) containing terms and/or conditions that are in addition to or inconsistent with these Terms of Sale listed herein, including but not limited to penalties or liquidated damages for DONA's failure to meet delivery dates or any other reason, are rejected by, and shall not be binding upon, DONA. DONA's failure to object to any additional, inconsistent, or other provisions contained in any other order or form of communication from Buyer shall not be construed as either a waiver or acceptance of such provisions. DONA reserves the right to correct any clerical or typographical errors at any time.

2. Acceptance. These Terms of Sale and any other written stipulations to which these Terms of Sale are stated to apply (collectively, the "**Agreement**") constitute the entire agreement between DONA and the Buyer. No modification(s), waiver(s), alteration(s), or additional term(s) shall be valid as against DONA unless said modification(s), waiver(s), alteration(s), or additional term(s) have been acknowledged in writing by DONA's duly authorized representative.

3. Pricing. All prices are in US Dollars. The purchase price of the Good(s) shall be those in effect on the date of Order Confirmation, unless otherwise specified by DONA. Unless otherwise agreed upon in writing, the purchase price shall not include system projects, installation or start-up of the supplied equipment, specific tests, manuals and training courses, assistance at start-up and all services and costs not expressly provided by DONA in writing, including, without limitation, any installation, user and maintenance handbooks, drawings and manuals.

4. Taxes and Other Charges. In addition to the purchase price of DONA's Goods, Buyer is also responsible for payment of any use-tax, sales tax, excise tax, duty, custom, inspection or testing fee, and/or any other fee, tax, or charge imposed by governmental or non-governmental authority arising from the Goods. In the event DONA is required to pay any of the fees or charges listed in this paragraph, Buyer herewith agrees to immediately reimburse DONA for this cost, or in lieu of such payment by DONA, Buyer agrees to timely provide an exemption certificate or other comparable document to the entity or authority imposing said fee, tax and/or charge. Buyer further agrees to waive any and all claims regarding the reasonableness of such payment and will be liable to DONA for reasonable attorneys' fees and/or court costs incurred by DONA as a result of Buyer's failure to pay the charges listed in this paragraph.

5. Payments. Any and all quotations provided by DONA are valid for thirty (30) calendar days for the date provided on the quotation. Except as otherwise provided by these Terms of Sale or by separate written agreement signed by DONA's duly authorized representative, the purchase price and any and all taxes and other charges are due at purchase. Any delays in payment by Buyer as set forth herein may result in delivery delays. Notwithstanding any terms to the contrary, in the event of a delinquency, all sums due and owing to DONA (retroactively applied to the date of purchase) will be subject to interest charges at the rate of Eight Percent (8%) per month. DONA reserves the right to require a security deposit from the Buyer on or after the date of purchase, but before DONA's delivery of the Good(s).

All payments shall be made to DONA as expressly stated by DONA in its order confirmation, and payment shall not be deemed to have been made until so received by DONA.

Under no circumstance may Buyer set off any claim of any nature against payment for Goods ordered by Buyer and delivered to Buyer, and any claims of Buyer allegedly giving rise to such setoff shall be waived if setoff is attempted or asserted.

6. Credit Purchases. Notwithstanding the provisions of Section 5 above, DONA, at its sole discretion and business judgment, may grant extended credit and/or payment terms to Buyer upon DONA's evaluation and examination of Buyer's creditworthiness, financial condition, physical location(s), business model, financial documents, or any other basis for such evaluation and examination, as deemed fit by DONA, at its sole discretion, and in accordance with applicable law. In the event DONA extends such credit and/or payment terms, such terms, conditions, restrictions, limitations, and other provisions shall be provided by DONA in DONA Sales Order Confirmation ("**DONA SO**").

7. Delivery; Risk of Loss. Unless otherwise expressly agreed in writing by the Parties, or otherwise prohibited by law, risk of loss shall pass to Buyer upon identification of the Goods. After identification of the Goods DONA shall be considered free from delivery obligations and all risks shall be transferred to the Buyer, even in the event of DONA being entrusted with delivery. Buyer must submit claims for shortages or incorrect Goods to DONA in writing within ten (10) business days after receipt of delivery. The Goods shall be deemed to conform and the Buyer shall be bound to accept the Goods

upon the earlier of (a) the passage of such ten (10) day period without written notice being given to DONA, or (b) any use of the Goods for production. DONA shall not be liable for any claim for damages resulting from the installation or use by the Buyer of non-conforming, damaged or defective Goods. Title and ownership to the Goods shall remain with DONA until DONA has received full payment therefore.

Except as expressly agreed upon in writing and signed by both Buyer and DONA, the delivery of all DONA Goods is Incoterms 2010 EX WORKS at DONA in Charlotte, North Carolina. DONA may, at its option, deliver all of the Goods covered hereby at one time or in portions from time to time. DONA shall make reasonable efforts to have Goods ready for delivery on or about the time stated or estimated on the OC, although time shall not be of the essence with regard to delivery of the Goods. In no event shall DONA be liable for delays in delivery, delivery, or the shipping process.

8. Acceptance of Goods. All Goods shall be accepted subject to the Buyer's rights of inspection, rejection, and revocation of acceptance pursuant to Article Two of the Uniform Commercial Code ("**UCC**"), but in no event longer than two (2) weeks after receipt at Buyer's location.

9. Limited Warranty. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, DONA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS SPECIFICALLY SET FORTH HEREIN.

(a) GOODS MANUFACTURED BY DONA

DONA warrants that all goods, materials, and components (hereinafter collectively "Goods") manufactured directly by DONA will be free from defects in material and workmanship under normal use and service, provided that Goods are returned to DONA for inspection within one year of the date of shipment to Buyer. DONA's obligation is limited to the repair or replacement of any such Goods found to be defective in material and workmanship pursuant to this Section. Buyer is responsible for maintenance and use in accordance with DONA's instructions and industry standards.

(b) GOODS MANUFACTURED BY OTHERS

DONA warrants that all Goods manufactured by others are sold only with such warranties as may be extended by the manufacturer of the Goods. DONA will provide all reasonable assistance to Buyer in obtaining the benefits of applicable manufacturers' warranties.

(c) WARRANTY EXCLUSIONS

The above-referenced warranties are only extended to Buyer, and not to Buyer's customers, and do not cover Buyer-furnished or selected designs, Goods equipment, specifications, or services, and do not apply to any DONA Goods or services or parts thereof which DONA determines:

- (1) Improperly installed or repaired.
- (2) Altered or modified in any way.
- (3) Subjected to misuse, abuse, excessive external forces, negligence, or accident.
- (4) Installed, stored, used, or operated in a manner contrary to manufacturer's instructions, specifications, and drawings, outside the specified design conditions, or not used in accordance with normal operating and maintenance instructions or industry standards.
- (5) Purchased as used Goods, a prototype, or a sample.
- (6) Resulted from normal wear and tear, corrosion or erosion.

Each of the foregoing shall act to void any existing warranty and could result in property damage and/or personal injury.

EXCEPT TO THE EXTENT EXPRESSLY AGREED BY DONA IN A SEPARATE WRITING WHICH FULLY OUTLINES BUYER'S SPECIFIC APPLICATION CONDITIONS AND PERFORMANCE PARAMETERS, ALL OF WHICH SHALL BE DISCLOSED AND CERTIFIED BY BUYER IN WRITING, DONA SHALL NOT BE RESPONSIBLE FOR DESIGN (INCLUDING FAILURE TO WARN), BUYER'S SPECIFICATIONS, OR USE OF GOODS, INCLUDING WITHOUT LIMITATION, USES THAT ARE NOT APPROVED BY DONA OR APPLICABLE GOVERNMENTAL AGENCIES, OR USES THAT DO NOT CONFORM TO APPLICABLE WARNINGS AND INSTRUCTIONS.

(d) LIMITATION OF LIABILITY

DONA takes no responsibility for Goods selection, operation, and use, regardless of any recommendations or suggestions made by the DONA. Buyer shall make selections based upon its own analysis with regard to function, material compatibility, fitness for use or intended purpose, and Goods ratings. Any such analysis, including testing, shall be the sole responsibility of Buyer. Proper installation, operation, and maintenance are solely the responsibility of Buyer or its customer. Any specifications listed in DONA's datasheets, catalog, and website are for reference only and are subject to change without notice.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, DONA'S LIABILITY FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT OR FROM THE PERFORMANCE OR BREACH THEREOF, OR CONNECTED WITH ANY GOODS OR SERVICES SUPPLIED HEREUNDER, OR THE SALE, RESALE, OPERATION OR USE OF GOODS, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INDEMNITY) OR OTHER GROUNDS, SHALL NOT EXCEED THE PRICE ALLOCABLE TO SUCH GOODS OR SERVICES OR PART THEREOF INVOLVED IN THE CLAIM, REGARDLESS OF CAUSE OR FAULT.

This limitation of liability reflects a deliberate and bargained-for allocation of risks between DONA and Buyer and constitutes the basis of the parties' bargain, without which DONA would not have agreed to the price or terms of this agreement. DONA shall not, under any circumstances, be liable for any labor charges without its prior written consent.

DONA SHALL NOT, IN ANY EVENT, BE LIABLE WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INDEMNITY) OR OTHER GROUNDS FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, LIQUIDATED, OR PUNITIVE DAMAGES including, but not limited to, loss of profits or revenue, loss of use of Goods or associated Goods, cost of capital, cost of substitute Goods, facilities or services, downtime costs, or claims of customers of Buyer for such damage.

If DONA furnishes Buyer with advice or other assistance regarding any Goods or services supplied hereunder, or any system or equipment in which any such Goods may be installed, and which is not required pursuant to this agreement, the furnishing of the advice or assistance will not subject DONA to any liability, whether based on agreement, warranty, tort (including negligence or indemnity) or other grounds. Buyer agrees to defend, indemnify and hold DONA harmless from any third party claims arising out of the use, resale, or lease of said furnished Goods or services.

CONSTRUCTION ATTACHMENTS ADDENDUM

Dinamic Oil North America warrants its gearbox for a period of twenty-four (24) months and twelve (12) months on the hydraulic motor months from invoice date to the original user. DONA warranty covers faulty workmanship and defective parts manufactured by DONA. The warranty does not extend to transportation cost of parts, nor does it cover consequential loss or damage to prime mover equipment.

Dinamic Oil Construction Attachments must be operated in accordance with the recommended procedures and within the specified operating parameters, both on the unit and contained in the operating manual. DONA will not be responsible for or accept any charges for work carried out by any repairs, or for any charges for any spare parts fitted to any DONA products without written approval from DONA. This warranty is void if field repairs have been made to the hydraulic motors, gearboxes and controls without written approval. The complete unit must be available for inspection in its original but alleged failed condition.

Dinamic Oil North America reserves the right to make design, specification and price changes without notice, and obligations to the effect of such changes.

10. Design Improvements. Goods sold by DONA are changed from time to time with changes that are intended to improve the design and construction of the Goods. As such, any illustrations, specifications, or other descriptive material submitted to the Buyer may not depict an exact replica of the Goods at the time of delivery, are merely intended as a general description of the Goods, and are not deemed to constitute a part of this proposal or a warranty as to the particular specifications of the Goods.

11. Utilities and Resources. Unless otherwise agreed to in writing by the Parties, all drawings, developments, designs, models, programs, auxiliary tools and devices including operating systems shall remain the property of DONA and not the Buyer. All Intellectual Property and Copyrights shall remain with DONA and may not be transferred.

12. Delay. DONA is not responsible for delay(s) in delivery for reasons beyond DONA's reasonable control, including but not limited to, Force Majeure, as defined in Section 13 below. In the event of delay under this paragraph, the delivery schedule shall be extended by amount of time originally lost due to the delay.

13. Force Majeure. DONA shall have no liability for any non-performance or delay in performance caused by circumstances beyond DONA's control including, but not limited to, acts of God; lockouts or other labor disturbances; wars; blockades; pandemics; quarantines; embargoes; riots; fires; explosions; failures of production facilities; failure of DONA's suppliers to delivery Goods or materials necessary to make its Goods; shortages of fuel transportation, utilities, or raw materials; or governmental laws, regulations, mandates, and orders.

14. Services. The provision of any services related to the Good(s) by DONA is a separate fee and the payment terms are as set forth in a separate service agreement.

15. Limitation of Liability. **TO THE FULLEST EXTENT PERMITTED BY LAW, DONA SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THE**

SET UP, USE OR INABILITY TO USE ANY OF THE GOODS, INCLUDING WITHOUT LIMITATION (1) LOSS OF USE; (2) LOSS OF PRODUCTION; (3) LOSS OF OPPORTUNITY; (4) LOSS OF MARKET VALUE; (5) LOSS OF INCOME; (6) PERSONAL OR BODILY INJURY OF ANY KIND (INCLUDING PHYSICAL OR MENTAL PAIN AND SUFFERING AND EMOTIONAL DISTRESS), MEDICAL, HOSPITAL, OR REHABILITATION EXPENSES; OR (7) DAMAGE TO PERSONAL PROPERTY, EVEN IF DONA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY. THE SOLE REMEDY OF THE BUYER FOR ANY BREACH OF THIS AGREEMENT BY DONA SHALL BE FOR THE REFUND OF ANY SUMS PAID FOR GOODS NOT DELIVERED BY DONA AND AS PROVIDED UNDER THE LIMITED WARRANTY IF PROVIDED. DONA SHALL NOT BE LIABLE FOR ANY OTHER DAMAGES WHATSOEVER.

16. Statute of Limitations. Buyer may bring no suit for any breach of DONA or any other claim arising out of this contract after one (1) year from the date of invoice of the Goods covered hereby.

17. Governing Law and Venue. This Agreement shall be exclusively governed by the laws of the State of North Carolina, regardless of its conflicts of law provisions thereto. The parties further consent to the exclusive personal jurisdiction of any applicable court in the city of Charlotte, North Carolina, for any legal action or proceeding brought to enforce, construe, or interpret these Terms of Sale. Venue is proper only in the state and federal courts of the State of North Carolina. Each party hereto irrevocably submits to the jurisdiction of each court in each such action or proceeding. **The provisions of the United Nations Convention on Contracts for the International Sale of Goods are not applicable.**

18. Dispute Resolution. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. In the event such mediation fails, the parties hereby agree to submit any controversy or claim arising out of or relating to this Agreement, or the breach thereof, to arbitration pursuant to the Commercial Rules of the American Arbitration Association ("AAA"), as modified herein. The AAA may appoint the arbitrator if the parties are unable to agree upon arbitrators. Upon the initiation of an arbitration claim, DONA shall be allowed access to the goods at issue to allow its personnel and experts at any reasonable time to examine and test the goods. If payment is withheld based upon an alleged setoff, the arbitrator(s) shall, within thirty (30) days of appointment conduct a hearing and order payment of the setoff amount. The arbitrator shall strictly apply the terms of this Agreement and shall not be authorized to award any remedy, except as stated in this Agreement or expressly consented in writing by the party against whom the remedy is granted. All mediation and arbitration proceedings held pursuant to this arbitration provision shall be conducted in Charlotte, North Carolina. This arbitration provision shall not limit the right of either party during any dispute, claim or controversy to seek, use and employ ancillary, provisional or preliminary rights and/or remedies, judicial or otherwise, for the purposes of realizing upon, preserving, protecting, foreclosing upon or proceeding under forcible entry and detainer for possession of any personal property, and any such action shall not be deemed an election of remedies. This includes, without limitation, obtaining injunctive relief or a temporary restraining order, invoking a power of sale under any security agreement, deed of trust or mortgage, obtaining a writ of attachment, order for claim and delivery or imposition of a receivership or exercising rights relating to personal property, including taking or disposing of such property with or without judicial purposes pursuant to Article 5 of the Uniform Commercial Code. The Federal Arbitration Act (Title 9 of the United States Code) shall apply to the construction, interpretation, and enforcement of this arbitration provision.)

19. Successors and Assigns. Buyer may not assign this Agreement (including by operation of law) without the prior written consent of DONA. Any such attempt to assign shall be null and void. **This Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit.** Nothing in the Agreement is intended to or shall confer on any Person other than the parties hereto or their respective permitted successors or assigns, any rights or remedies under or by reason of this Agreement.

20. No Liability to Third Persons. DONA shall not be liable whatsoever to Buyer for any claim or action by any third party arising out of, or alleged to rise out of, the delivery of Goods covered hereby, the presence of DONA's employees on Buyer's premises in connection with this Agreement or out of the use, by Buyer, or third parties, of the Goods covered hereby. Buyer shall defend, indemnify and hold harmless DONA from any and all such claims. Third Parties shall be deemed to include, without limitation, employees of Buyer, as well as all third parties not connected with Buyer or DONA.

21. Security Interest. DONA reserves a purchase money security interest in the Goods, all additions and accessories thereto, and all replacements, products, and proceeds thereof to secure payment of the purchase price. Said security interest shall be retained until the purchase price is paid in full. Buyer agrees DONA has the right to file the

Agreement or financing statements pursuant to the Uniform Commercial Code; or other applicable law to evidence or perfect DONA's security interest in the Goods. Upon DONA's request, Buyer will join with DONA in the execution of such financing statements. Buyer further agrees DONA has the right to invoice Buyer and Buyer will pay all fees, taxes, and assessments associated with the filing of the Agreement or financing statements.

22. Buyer Default. In the event Buyer does not comply with any part of the payment terms of this Agreement, DONA shall have the right to elect to accelerate and declare immediately due and payable all debts and obligations of Buyer of any nature due to DONA, whether under this Agreement or otherwise, and, in addition, DONA may refrain from making any further deliveries, whether under this Agreement or another contract, until such default or noncompliance is remedied. If at any time there is a substantial change in the financial condition of Buyer arising from a change in business or market conditions or otherwise, or in the event of Buyer's merger, reorganization, change in corporate or legal status, or other change in Buyer's business form, or if Buyer is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, or if a petition is filed under any applicable chapter of the relevant bankruptcy law respecting Buyer, or if any lien, arising from judicial process or otherwise, is placed on any material asset of Buyer, or if any tax lien is filed against Buyer, DONA, at its option, shall have the right to declare all amounts accrued under this Agreement or any other contract immediately due and to change the payment terms hereunder, or any other contract between Buyer and DONA, for any future deliveries or services (whether or not such services are required pursuant to warranty), including, but not limited to, requiring cash in advance of delivery or delivery of an acceptable Letter of Credit. Any failure of performance of this Agreement by Buyer shall, at the option of DONA, be grounds for DONA, in addition to any remedies of DONA provided by law, to cancel or terminate this Agreement and related purchase and all other contracts of sale between Buyer and DONA, and to recover all damages provided by law, including reasonable attorneys' fees and disbursements and court costs.

23. Severability. If a court of competent jurisdiction holds any term or provision of this Agreement to be invalid or unenforceable, such provision or portion thereof shall be considered separate and apart from the remainder of the Agreement and the other provisions shall remain fully valid and enforceable.

24. Modification. The terms of this Agreement may not be amended, modified, waived, superseded, or rescinded except by a writing signed by DONA's duly authorized representative.

25. Entire Agreement. The Agreement, together with these Terms of Sale, and any attachments, manuals, guidelines, requirements, exhibits and supplements specifically referenced therein, constitutes the entire agreement between the Parties and supersedes any and all other prior contracts and undertakings, both written and oral, among the parties or any of them, with respect to the subject matter herein and, except as otherwise expressly provided herein, is not intended to confer upon any other person any rights or remedies hereunder.

26. California Proposition 65. For Customers in California, pursuant to California Health and Safety Code Section 25249.5 et seq., commonly referred to as Proposition 65 ("Prop 65"), DONA hereby notifies Buyer that the Goods sold contain shale oils, mineral oils, and tetrachloroethylene, which are known to the State of California to cause cancer. For further information on Prop 65 please consult the official website www.P65Warnings.ca.gov.

27. Reservation of Rights. No failure of DONA to insist upon or compel compliance by Buyer with any of the terms, provisions or conditions hereof shall be construed as a waiver by DONA of its right to insist upon compliance therewith in the future.

28. Acceptance of Conditions. The Buyer declares explicitly that, after having read these Terms of Sale in full, and hereby acknowledges, agrees to, and accepts them unconditionally. The parties to this Agreement represent that they have negotiated and understand its provisions and agree that no presumptions should be made against the drafter.

Note: CERTAIN LIMITED WARRANTIES ARE EXPRESSLY PROVIDED HEREIN OR IN AN ORDER CONFIRMATION. DONA DISCLAIMS ALL OTHER WARRANTIES WHATSOEVER, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED.