

OPW Engineered Systems ("OPW") Terms and Conditions Effective 06/01/22

1. Agreement.

These Terms and Conditions, together with any information or documents incorporated in by reference or attached to the formal OPW Engineered Sales Order Acknowledgement, contain the entire and exclusive agreement ("Agreement") between OPW and OPW's customer ("Customer") and supersede any other understandings or agreements, verbal or otherwise, except as expressly set forth in this Agreement. By receipt of goods or services, or by performing hereunder, Customer agrees to the exclusive application of these Terms and Conditions, although its agreement to such Terms and Conditions is not limited to the foregoing methods. Notwithstanding anything in the foregoing to the contrary, if Customer has heretofore made OPW an offer with respect to any goods and/or services ("Goods") to be provided hereunder, this Agreement shall not operate as an acceptance of Customer's offer, but shall be deemed a counteroffer. OPW expressly limits and makes expressly conditional any acceptance by Customer, regardless of its form or substance, of an offer to these Terms and Conditions. Reference to any form or communication of Customer, including but not limited to OPW noting Customer's Purchase Order number shall not be deemed to be an acceptance of any terms and conditions therein, and any different or additional terms or conditions in any proposal, acknowledgment form or any other document of Customer are hereby objected to and superseded in their entirety by these Terms and Conditions. All orders placed for products and services of OPW shall be subject to these Terms of Sale ("Terms"). No additional or different terms or conditions or any modifications, changes or amendments to the Terms shall be binding upon OPW unless specifically agreed to in writing by an authorized representative of OPW. Any additional or different terms already or hereafter proposed by customer, whether in a purchase order or other communication or otherwise, are hereby rejected and shall not apply. The lack of objection by OPW to any additional, modifying or deleting provisions contained in any communications from customer shall not be construed either as a waiver of the Terms or as an acceptance by OPW of any deviation from the Terms. All orders and any changes to existing orders at OPW must be made in writing and shall not be binding on OPW until accepted by an authorized representative of OPW. No changes can be made to an order after 24 hours or shipments have been started against the order, whichever occurs first. Orders received after 4:00 p.m. EST will be processed the following business day. Note: Rush orders may not be changed or cancelled.

2. Law.

These Terms shall be governed by and be construed in accordance with the laws of Illinois, without giving effect to any choice of law rules. To the extent applicable, each party expressly consents to the exclusive jurisdiction of the courts of the State of Illinois, County of Cook, or, if it has or can acquire jurisdiction, in the United States District Court for the Northern District of Illinois, to govern all disputes arising hereunder.

3. Cancellations.

In the event an order is cancelled after it has been accepted, a cancellation charge based on the percentage of work performed by OPW will be assessed. The minimum cancellation charge for any cancelled order is 20% of the net price. All cancellation requests must be submitted in writing.

4. Intellectual Property Right and Product Designs.

All intellectual property rights in, or relating to, the products and/or services are owned by or licensed to OPW and nothing herein shall have the effect of transferring the ownership of such intellectual property rights to customer. Product designs are subject to change in OPW's sole discretion without notice to Customer.

5. Published Prices and Terms.

The published prices for all OPW products are quoted in US dollars and are subject to change without notice. OPW reserves the option to invoice at its prices in effect at time of shipment. All prices and amounts due hereunder exclude all U.S. and foreign federal, state, local, municipal or other sales, excise, use, value-added, stamp, property or other taxes and fees and all export or import fees, customs duties, tariffs or consular fees, now in force or enacted in the future. Any applicable taxes, fees and duties shall be paid by customer, either directly or by reimbursement to OPW. Any claim for exemption by customer shall, if applicable, be effective only after receipt of proper exemption forms by OPW, but in no event after delivery or performance. If any government or body or similar authority determines that OPW is liable for any such costs, duties, tariffs, taxes and fees, then Customer shall promptly reimburse OPW for any such liabilities paid by OPW. Prices are F.O.B. Lebanon, Ohio. Minimum total purchase order amount for each order is \$100.00 Net, F.O.B. factory. Orders for less than \$100 will only be accepted with payment by Visa or MasterCard. Special quotations may be obtained from OPW for products not covered by published prices. Such special quotations are firm for 90 days after the date of quotation, unless otherwise indicated.

6. Payment Terms.

All shipments are made with terms of net 30 days from the date of invoice payable in US dollars, unless otherwise indicated. An account which is delinquent may be subject to restricted or no shipment of Goods and may be subject to finance charge of 1.5% per month or the maximum allowed by law on past due invoices. If, during the period of performance of an order, the financial condition of the Customer is determined by OPW not to justify the terms of payment specified, OPW may demand full or partial payment in advance before proceeding with the work, or satisfactory security or guarantees that invoices will be promptly paid when due, or, at its option without prejudice to other lawful remedies, OPW may defer delivery or cancel this contract. If Customer defaults in any payment when due, or in the event any voluntary or involuntary bankruptcy or insolvency proceedings involving Customer are initiated by or against Customer, then the whole contract price shall immediately become due and payable on demand, or OPW, at its option without prejudice to its other lawful remedies, may defer, deliver or cancel this contract. Customer shall also reimburse OPW for all collection costs, court costs, attorney's fees and other expenses incurred in collection of past due amounts.

7. Delivery and Title.

OPW attempts to ship all orders as promptly and efficiently as possible. However, orders are accepted with the express understanding that OPW will not be liable for any losses or damages resulting from any delays in shipment or delivery due to any cause whatsoever. OPW reserves the right to make delivery in installments, unless otherwise expressly stipulated in the formal Sales Order Acknowledgement; and all such installments, when separately invoiced, shall be paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Customer of its obligations to

accept remaining deliveries. OPW reserves the right to charge an expediting fee where special delivery circumstances might apply. Title to the Goods, and all accessories to or products or proceeds of the Goods, shall remain with OPW until payment in full of the purchase price and of other amounts owing by Customer. To the extent legal title to the Goods shall be deemed by law to pass to Customer at the time of delivery and prior to performance of all of Customer's obligations hereunder, equitable title shall remain in OPW until payment in full of the purchase price. Customer shall grant, and by acceptance of the Goods shall be deemed to have granted, to OPW, a first security, purchase money security, interest in all Goods to secure payment of the purchase price and other amounts owing by Customer and performance of all Customer's obligations hereunder. Customer shall permit OPW to file this Agreement or financing statement(s) pursuant to the applicable Uniform Commercial Code or other applicable laws to evidence and/ or perfect OPW's security interest in the Goods. On request, Customer shall execute any and all documents and agreements in this regard and assist OPW in any filing thereof. OPW may reclaim any Goods delivered to Customer or in transit if Customer shall fail to make payments when due.

8. Shipment and Risk of Loss.

All shipments are F.O.B. factory Lebanon, Ohio. Full freight is allowed on surface transportation within the continental United States for orders of \$2,000 net or more. Full freight is allowed on surface transportation within Canada for orders of US \$3,000 net or more. Any orders not meeting OPW's freight allowed policy will be shipped collect or prepaid and added to the invoice. OPW reserves the right to select freight routing. All freight claims and tracers are Customer's responsibility. During shipment and during any return shipment to OPW, Customer shall bear all risk of loss thereto, and carry adequate insurance, for any and all loss, damage or destruction.

9. Import and Export Compliance.

Customer shall strictly comply with any applicable laws in force from time to time regarding import/export regulations, tax and/or customs and duties ("Import/Export Legislation") related to the import of the goods to the point of delivery specified in an order and the export of the goods from the point of origin of such goods, and customer's purchase of goods pursuant to these Terms constitutes its certification that it will remain in compliance with the requirements of such Import/Export legislation. Customer shall ensure that it will not export, sell, divert, transfer or otherwise dispose of the goods in violation of the Import/Export Legislation. Customer agrees to, at its expense, obtain any and all licenses and approvals that may be necessary to import the goods to the point of delivery specified in an order and to export the goods from the point of origin of such goods in accordance with the Import/ Export Legislation. Customer shall provide OPW with such documentation as OPW may request to confirm customer's compliance with the Import/Export Legislation.

10. Shortages.

Claims for shortages in shipments and errors in freight charges must be reported to OPW within 15 days of the invoice date.

11. Instructions and Partial Lists.

Where needed, one copy of the OPW standard instructions and parts list is packaged and shipped with each product. When special instructions or parts lists are required, a request with complete specifications must be submitted to the OPW Customer Service Department for quotation.

12. Factory Inspection and Tests.

Each OPW product is required to pass standard factory inspections and tests prior to shipment. When certified tests are required, OPW will test equipment performance under simulated conditions agreed upon with the customer. All special factory inspections, certified performance tests or other similar tests must be submitted to the OPW Customer Service Department for quotation.

13. Product Return.

a. Return Procedure. Customer must obtain authorization from OPW prior to the return of Goods to the factory by calling OPW Customer Service and getting a Return Goods Authorization number for each return. Customer must provide the reason of the return, date of invoice and invoice number of the product to be returned. All returns must be shipped freight prepaid. The Return Goods Authorization Number must be marked on the outside of the carton to be returned. Failure to have this number on the outside of the carton will result in the package being returned to the sender.

b. Returns due to Customer Error. OPW allows 60 days from the date of invoice to return standard items purchased in error. The return will be subject to a minimum handling and restocking charge to be determined by OPW Customer Service Department subject to a \$100 minimum plus any charge for reconditioning of the returned product as necessary. Returns after 60 days must be approved in advance by OPW Sales Management.

c. Returns due to OPW Error. All requests to return merchandise due to errors by OPW must be made within 60 days of invoice date. Upon receipt and acceptance of the merchandise by OPW, full credit will be issued.

d. Returns under Warranty. Goods returned under warranty are inspected at the factory to determine the nature of the defect. If after such inspection OPW confirms that a defect exists that is covered by the applicable warranty and that such has not become invalid, OPW will repair or replace the Goods subject to the conditions set forth in this Agreement. If OPW determines during the inspection that the applicable warranty has become invalid, Customer will be contacted for the returned Goods salvage instructions. If salvage instructions are not received within 60 days after notice has been given, the returned Goods will be scrapped.

e. Specialized Goods. Custom and assembled loading arms, special swivels, and other special products are made to order and not returnable. Parts, repair kits, and seal replacement kits will not be accepted for return.

14. Warranties.

a. Standard Warranty. Except as otherwise set forth in this Agreement and subject to the terms and conditions herein, OPW warrants that the Goods will meet the specifications for the Goods as published by OPW for a period of 12 months after shipment from the factory. Subject to the terms and conditions set forth in this Agreement, if within the warranty period such Goods shall be proved to OPW's satisfaction to be non-conforming, OPW will either, in its sole discretion, repair or replace the defective product without charge. Customer must notify OPW in writing within the warranty period of any such alleged defects. OPW, in its sole discretion, may require Customer to return the allegedly defective parts or Goods to its factory for verification of any claim.

b. **Visi-Flo® Warranty.** Subject to the terms and conditions set forth in this Agreement, OPW warrants that all Visi-Flo® products will meet the specifications for such products as published by OPW for a period of three years from date of purchase. During this period, parts needing replacement, due to normal conditions of wear, will be supplied at no charge to Customer. Normal conditions of wear do not include glass breakage due to impact from a foreign object or thermal shock or improperly installed replacement seals. This warranty shall not apply to any Visi-Flo® product which has been altered in any way or when such failure is due to misuse or adverse conditions of use. The 3-year warranty period set forth in this Section 13.b. only applies to 1400 & 1500 series Visi-Flo®'s.

c. **Extended Warranty Products.** Subject to the terms and conditions herein, OPW warrants that (i) the 790 Easy Adjust Spring will meet the specifications for such products as published by OPW for a period of five years after shipment from the factory and (ii) the Endura Swivel will meet the specifications for such products as published by OPW for a period of three years after shipment from the factory. Subject to the terms and conditions set forth in this Agreement, if within the warranty period such Goods shall be proved to OPW's satisfaction to be non-conforming, OPW will either, in its sole discretion, repair or replace the defective product without charge. Customer must notify OPW in writing within the warranty period of any such alleged defects. OPW, in its sole discretion, may require Customer to return the allegedly defective parts or Goods to its factory for verification of any claim. Normal conditions of wear include, but are not limited to, the failure of seals after standard use.

d. **Limitations of Warranties.** The limited warranties contained in this Section 13 shall be valid and remain in effect only if: (i) the Goods are used, maintained, installed, stored and repaired by Customer as required by all applicable documentation; (ii) Customer has paid OPW all sums due hereunder; (iii) Customer has not in any way modified the Goods; (iv) the claim is unrelated to normal wear and tear, corrosion or erosion, or to any Good normally consumed in operation or that has a normal life inherently shorter than the applicable warranty period; (v) the claim is unrelated to the failure by Customer to follow the most current instructions issued by OPW with respect to the proper use of the Goods; (vi) the claim is unrelated to Customer's provided materials, assembly, specification(s) or design(s) or to the negligence or act of Customer or any third party; (vii) there has been no operation or use of the Goods under conditions more severe than those for which the Goods were specified; or (viii) the claim is unrelated to force majeure.

15. Exclusion of Consequential Damages and Disclaimer of Liability.

The foregoing Sections 13 and 14 shall provide Customer's sole and exclusive remedy under this Agreement for any claim whatsoever. The exclusive remedy shall not be deemed to have failed its essential purpose so long as OPW is willing and able to repair or replace non-conforming Goods within a reasonable time after Customer proves to OPW that a non-conformity is involved. Except as warranted in Section 14, the GOODS ARE SOLD HEREUNDER AS IS, AND NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, WHETHER IN RELATION TO MERCHANTABILITY, HIDDEN DEFECTS, FITNESS FOR PARTICULAR PURPOSE, COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OF TRADE, NON-INFRINGEMENT OR OTHERWISE IS GIVEN BY OPW TO CUSTOMER OR ANY OTHER PARTY. NEITHER OPW NOR THE MANUFACTURER OF THE GOODS SHALL UNDER ANY CIRCUMSTANCE BE RESPONSIBLE FOR ANY LOSS OR DAMAGE, INDIRECT, SPECIAL, ORDINARY, EXEMPLARY, CONSEQUENTIAL OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, PROFIT OR USE OR COST OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE), ARISING OUT OF THE TRANSACTIONS CONTEMPLATED HEREUNDER.

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UNDER NO CIRCUMSTANCES SHALL OPW'S OR THE MANUFACTURER'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY CLAIMS HEREUNDER), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO OPW HEREUNDER (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN SUCH ACTION). The warranties set forth in Section 14 do not cover any expense incurred in repairs or alteration made outside the OPW factory without prior authorization, nor do they cover in any way the performance of equipment, which has been revised or altered by others. Customer is wholly responsible for establishing the suitability of the product for his or her particular application and operating conditions, which do not exceed product limitations.

16. Force Majeure.

OPW shall not be liable for damages for a delay or failure in its performance as a result of causes beyond its reasonable control, including any law, order, regulation, direction, or request of any government having or claiming to have jurisdiction over OPW, its subcontractors and/or its suppliers; failure or delay of transportation; insurrection, riots, national emergencies, war, acts of public enemies, strikes or inability to obtain necessary labor, manufacturing facilities, material or components from OPW's usual sources; fires, floods or other catastrophes; acts of God, acts of omissions of customer or any causes beyond the reasonable control of OPW and/or of its suppliers. Upon the giving of prompt written notice to customer of any such causes of a delay or failure in its performance of any obligation, the time of performance by OPW shall be extended to the extent and for the period that its performance of said obligations is prevented by such cause.

17. Safety and Indemnification.

CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS OPW AGAINST ANY AND ALL LOSSES, DAMAGES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND OTHER COSTS OF DEFENDING ANY ACTION) THAT IT MAY SUSTAIN OR INCUR AS A RESULT OF THE USE, OPERATION OR POSSESSION OF THE PRODUCTS AND/OR SERVICES BY CUSTOMER OR ITS AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, THE NEGLIGENT OR WILLFUL ACT OR OMISSION OF CUSTOMER OR ITS AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES OR THE ALTERATION OR MODIFICATION OF THE PRODUCTS AND/OR SERVICES OR THE USE OR COMBINATION OF THE PRODUCTS AND/OR SERVICES WITH OTHER PRODUCTS, DEVICES OR SERVICES BY CUSTOMER OR ITS AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES. Customer shall ensure that its personnel are, at all times, trained in the proper use and/or operation of the Goods and that the Goods are used in accordance with applicable manuals, documentation and instructions.

18. Anti-Bribery Compliance.

Customer hereby certifies that customer and its directors, officers, employees, agents, sub-contractors and/or consultants: (i) are familiar with, and shall comply in all respects with, all applicable laws in force from time to time regarding bribery, fraudulent acts, corrupt practices and/or money laundering, including the U.S. Foreign Corrupt Practices Act, as amended, and the U.K. Bribery Act 2010, as amended; (ii) have not and shall not authorize or make any payments or gifts or any offers or promises of payments or

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gifts of any kind, directly or indirectly, in connection with the transactions governed by these Terms to any "foreign official," including (a) any official, agent, or employee of any government or governmental agency; (b) any political party or officer, employee or agent thereof; or (c) any holder of public office or candidate for political office; and (iii) are not officials or employees of any government, an official of a political party, or a candidate for political office, or a director, officer, employee, or affiliate of a government instrumentality. Customer understands that for purposes of this Section, a "foreign official" may include an employee or official of a commercial entity in which a government body has an ownership interest or exerts control over the activities of such entity, as well as officials and employees of public international organizations.

19. Severability.

If any provision or portion thereof of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any legal and enforceable provisions hereof. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES, IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH. The remaining provisions shall be construed as if such illegal and unenforceable provision or provisions had not been inserted herein, unless such illegality or unenforceability shall destroy the underlying business purpose of the Agreement. Customer waives any governmental immunity, if applicable, to any and all causes of action.

20. Miscellaneous.

- a. None of the provisions of this Agreement shall be deemed to have been waived by any act of or acquiescence on the part of OPW, its agents, subcontractors, or employees, or by any subsequent Customer correspondence, purchase order or the like, but only by an instrument in writing signed by an authorized representative of OPW. No waiver by OPW of any provisions of this Agreement shall constitute a waiver of any other provision or of the same provision on another occasion.
- b. It is expressly declared that this Agreement and the relationship between the parties hereby established do not constitute a partnership, joint venture or agency arrangement between them.
- c. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Customer may not assign its rights or obligations under this Agreement in any way without the prior written consent of OPW. OPW may use subcontractors as it deems necessary.
- d. This Agreement may be amended only in writing signed by each of the parties hereto.
- e. All notices required to be given hereunder shall be in writing. Notices shall be considered delivered and effective upon receipt when sent by telecopy with proof of transmission or by registered or certified mail postage pre-paid, return receipt requested, addressed to the parties. Either party, upon written notice to the other, may change the address to which future notices shall be sent.
- f. Buyer shall not, directly or indirectly, export or transmit any Goods covered by this Agreement to any country to which such export or transmission is restricted by applicable regulations or statutes of the United States or any agency thereof, without the prior written consent of the U.S. Department of

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Commerce, Washington, D.C. 20230 and of any other required governmental agency. Customer covenants that the Goods are not intended for any nuclear use or chemical or biological weapons production.

g. The enforceability of Sections 2, 5, 6, 12, 13, 14, 16 17, 18 and 19 (e) and (g) shall survive the termination or expiration of this Agreement for any reason whatsoever.

21. Special Provisions for Breakaway Couplings.

If Customer is a sales representative or distributor (“Distributor”) of OPW for breakaway couplings (the “Special Goods”), the following provisions, in addition to all of the other provisions contained in these Terms and Conditions (unless expressly stated otherwise), shall apply to Distributor:

- a. Distributor is permitted to sell the Special Goods anywhere in the world except for in Europe or in the Middle East. While Distributor represents OPW, Distributor will not represent other companies that manufacture or distribute products of a similar size and function to the Special Goods.
- b. Notwithstanding Section 13(c) of these Terms and Conditions with respect to the Special Goods, Distributor will inspect the Special Goods immediately upon receipt and will inform OPW in writing within 14 days of their arrival if they do not conform to the applicable order. If Distributor fails to provide such notice within such time period, the Special Goods will be deemed to have been accepted by Distributor.
- c. Distributor will provide the end-customer with all operating and assembling instructions relating to the Special Goods. Distributor will handle the Special Goods in accordance with such instructions and in compliance with all applicable laws. Distributor shall not alter the Special Goods in any way without the consent of OPW.
- d. Distributor shall alert OPW to (i) any complaints regarding, or the improper use of, the Special Goods or intellectual property relating thereto; and (ii) any dangers or defects in connection with the Special Goods.
- e. Distributor agrees that, if a dispute arises between OPW and Distributor that involves claims by or against the manufacturer of the Special Goods, the dispute shall be resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in Houston, Texas. Notwithstanding the foregoing, OPW, Distributor and such manufacturer shall at all times have the right to seek remedies, including injunctive relief, through the courts to protect its proprietary and intellectual property rights.
- f. Distributor shall keep confidential, not disclose or use for its own benefit, and return upon termination of this Agreement, any proprietary information of OPW or the manufacturer of the Special Goods. The intellectual property used or embodied in the Special Goods shall remain the property of OPW or its manufacturer. Any discoveries or improvements to the Special Goods shall become and remain the exclusive property of OPW or its manufacturer, and Distributor shall cooperate with OPW and its manufacturer with respect to the registration of any such intellectual property. During the term of the Agreement, Distributor shall have comprehensive general liability insurance with limits of at least \$4,000,000 per occurrence and \$8,000,000 in the aggregate