

## **NORTHWEST MACHINE WORKS, INC. - PRODUCT LIABILITY DISCLAIMER**

### **TERMS OF USE, WARRANTY & LIABILITY WAIVER**

*Updated November 01, 2018*

Northwest Machine Works, Inc. (the "Seller") offers its products to the purchaser (the "Purchaser") with the terms, conditions and notices as follows. The following terms and conditions apply to all sales and uses. Please review this information carefully. These terms and conditions include limited warranties and disclaimers of liabilities. Keeping, using, or allowing use of Seller's products indicates Purchaser's agreement to these terms. If Purchaser does not wish to agree to these terms, Purchaser has ten (10) days from the date of purchase to contact the seller to discuss options for the return of the unused product.

#### **Terms of use**

The product is offered to Purchaser conditioned upon Purchaser's acceptance without modification of the terms, conditions and notices contained herein. The product has been designed for a specific use determined by Seller. Modification of the product(s) through use or misuse, application of additional components and/or removal of provided components, can lead to product malfunction causing serious risk. Risks include but are not limited to product damage, serious physical injury, disability and/or death. Purchaser is responsible for any modifications Purchaser performs on Purchaser's or anyone else's equipment, including product(s) purchased from Seller. Seller is not responsible and will not be held liable for any modifications done to equipment through the use or misuse of its product, including adding or removing components that alter the functionality of the product and/or improper installation and adjustment of Seller's product. This product may not be used for unlawful purposes and such uses are expressly prohibited under the terms and conditions of its use.

#### **Limited Replacement Warranty**

The Seller warrants to the Purchaser that: (a) the Products will be free from defects in workmanship and materials and will conform to Seller's specifications [except where Purchaser has provided Seller with detailed drawings and/or written specifications and Seller has approved such drawings and specifications, in which case Products will conform to Customer-supplied specifications]; and (b) Seller will transfer to Purchaser ownership and good title to product(s) delivered, free of all liens, encumbrances and rights of third parties (except those created by Purchaser). This warranty will continue for twelve (12) months from the date of purchase of the Products. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SAID IMPLIED WARRANTIES BEING HEREBY EXPRESSLY DISCLAIMED.

#### **Warning**

Use and misuse of products sold by Seller involves serious risks including injury, disability and death. Purchaser assumes all risks.

#### **High Risk Activity**

Product(s) sold by Seller include equipment used in a variety of industrial, agricultural, drilling and mining applications. Participation in these activities is associated with a high level of risk. Risks include, but are not limited to, serious physical injury, disability and/or death. Purchaser participates in this activity at Purchaser's own risk.

**Assumption of Risk**

By buying, using, or allowing the use of Seller's products, Purchaser understands and agrees that Purchaser is engaging in high risk activities and, to the extent permitted by law, PURCHASER EXPRESSLY AND VOLUNTARILY ASSUMES THE RISK OF DEATH OR OTHER PERSONAL INJURY SUSTAINED WHILE PARTICIPATING IN SUCH ACTIVITIES WHETHER OR NOT CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF Seller; including, but not limited to, equipment malfunction from use, misuse, or negligence, or any other fault of Seller. Additionally, Purchaser agrees to indemnify, defend and hold Seller harmless from any third party claims arising from such high risk activities or any other equipment use, misuse, or malfunction.

**Limitation of Liability**

As set forth above, under the limited warranty provisions, Seller liability is limited to repair or replacement of its products which are returned to it in the specified period of time. In no event shall Seller liability exceed the value of the product(s) sold. In no event shall Seller be liable for any direct, indirect, punitive, incidental, special or consequential damages whatsoever arising out of or connected with the use or misuse of any of its products.

**Inspect Before Each Use**

This product must be inspected for use to ensure it has not been damaged in shipment. If damaged, do not use the product and immediately return the product to Seller for a replacement.

**Entire Obligation**

The PRODUCT LIABILITY DISCLAIMER document states the entire obligation of Seller with respect to the product(s). If any part of this disclaimer is determined to be void, invalid, unenforceable or illegal, including, but not limited to, the warranty disclaimers, liability disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall remain in full force and effect.

**Applicable Law**

Purchaser's order from Seller and this disclaimer statement are governed by the laws of the state of Colorado, USA. Purchaser hereby consents to the exclusive jurisdiction and venue of the Colorado Supreme Court, USA, in all disputes arising out of or relating to the use of this product. Use of this product is unauthorized in any jurisdiction that does not give effect to all provisions of these terms and conditions, including, without limitation, this paragraph.

**Modification of Terms and Conditions**

Seller reserves the right to change the terms, conditions and notices under which its products are offered at any time without notice.