

TERMS OF PURCHASE

These terms of purchase apply to all purchase orders (“Purchase Order”) issued by HYSTER-YALE BRASIL EMPILHADEIRAS LTDA. (actual company name of NACCO MATERIALS HANDLING GROUP BRASIL LTDA.), a limited liability business company with its principal place of business in the City of Itu, State of São Paulo, at Rodovia Presidente Castelo Branco, s/ nº, Km 75,8, CEP 13308-700, enrolled with the Brazilian Corporate Taxpayers’ Registry under CNPJ/MF No. 57.014.896/0001-85 (**“HY-Brasil” or “Buyer”**), in connection with its intent to purchase certain products (**“Products”**) from the Supplier to whom a Purchase Order is issued and by whom it is accepted whether accepted in writing or electronically. Supplier, as a condition of accessing the website maintained by HY-Brasil has provided HY-Brasil with its correct legal name, business type, principal place of business and Brazilian Corporate Taxpayers’ Registry CNPJ/MF No. (**“Supplier”**). Supplier agrees to provide Buyer with written notice of any change to any of the corporate information previously provided. Both Buyer and Supplier may be hereinafter referred to individually as “Party” and jointly as “Parties”.

WHEREAS, Buyer and Supplier desire to facilitate purchase and sale transactions electronically, the Parties agree to these Terms of Purchase. In the absence of any other written agreement made expressly applicable to a Purchase Order, all Purchase Orders and any transactions between Buyer and Supplier and any related communication shall be subject to these Terms of Purchase.

1. **Offer to Purchase**

1.1 Purchase Orders will be issued by HY-Brasil with respect to purchase of the Products listed on the particular order issued by HY-Brasil.

1.2 A Purchase Order is deemed perfected when the Supplier expresses its acceptance via electronic mail or any other form of writing within five (5) days of issuance of the order. Acceptance or rejection of a Purchase Order shall be made by means of the signature of its authorized representative, or electronically.

1.3 Supplier will be issued a unique ID and password to have access to HY-Brasil's electronic system, for use solely to receive, accept or otherwise communicate with HY-Brasil regarding Purchase Orders. Supplier shall be liable for any misuse of the log-in ID and/or password. All orders placed by HY-Brasil shall be deemed executed if accepted by such person appointed by Supplier to receive the log-in ID and password.

1.4 Acceptance of a Purchase Order is limited to the terms and conditions of the Purchase Order, including these terms of purchase.

1.5 A Purchase Order, with any attachments, constitutes an entire Purchase Order of the Supplier and the Buyer.

1.6 No waiver, modification or additions to the terms of a Purchase Order shall be valid unless in writing and signed by the Parties, except as provided in section 1.7 below.

1.7 Further attachments depicting additional Products to be purchased by HY-Brasil from Supplier may be incorporated into a Purchase Order, in which case, upon Supplier’s acceptance, the respective underlying transaction will be subject to all terms and conditions provided for herein. The Parties agree that Supplier’s acceptance as to the incorporation of further attachments to a Purchase Order, exclusively in relation to additional Products to be purchased by HY-Brasil from Supplier, shall be deemed accepted if Supplier when the Supplier expresses its acceptance of the additional attachment

via electronic mail or any other form of writing, including electronic notices of the date on which such attachment was submitted to Supplier by Buyer.

2. **Price**

- 2.1 Billing against HY-Brasil shall strictly conform to the prices set forth in the Purchase Order and the provisions in item 4 below. Prices are firm and cannot be increased without the prior written consent of HY-Brasil.
- 2.2 Unless otherwise specified, the price charged by Supplier for Products includes all charges for packing, hauling, storage and transportation to point of delivery. Supplier will pay all delivery charges in excess of any delivery charge HY-Brasil has expressly agreed to pay. The price further includes value added tax (ICMS) and any other applicable tax levied on the sale of the relevant Products. Supplier's invoice shall separately state the ICMS amount and ICMS shall be paid by Buyer.
- 2.3 Supplier agrees that any price reduction made with respect to the items covered by a Purchase Order subsequent to its placement but prior to payment will be applicable to the current and any future Purchase Orders.

3. **Delivery**

- 3.1 Supplier shall strictly comply with the delivery dates set forth in the Purchase Order. The ordered items shall be delivered on the agreed date, early delivery may be permitted solely with the prior written consent of HY-Brasil.
- 3.2 Product replacements will not be accepted by HY-Brasil.
- 3.3 Supplier shall not deliver quantities in excess of what is provided for in the Purchase Order without HY-Brasil's prior written approval.
- 3.4 Except as otherwise agreed in writing, Buyer shall not be obligated to accept untimely, excess or under shipments and such shipments in whole or in part may, at HY-Brasil's option, be returned to Supplier, or held for disposition at Supplier's expense and risk.

4. **Invoicing**

- 4.1 Invoices issued by Supplier to HY-Brasil shall indicate the respective Purchase Order number, and clearly describe the sold Products, quantities and specifications and be attached to the original respective bill of lading or other shipping receipt. Invoices shall further comply with the applicable legal and tax provisions and provide clear payment instructions including Supplier's bank account details. Invoices shall be delivered to HY-Brasil when the Products are delivered.

5. **Cancellation**

- 5.1 HY-Brasil reserves the right to cancel a Purchase Order at its sole discretion, in whole or in part, at any moment, upon previous written notice, via fax or e-mail to the Supplier.

- 5.1.1 Upon the date of receipt of a cancellation notice, Supplier shall, unless the notice directs otherwise, immediately discontinue the whole manufacturing of Products, as well as purchase orders of materials, raw materials or supplies related to such Purchase Order, and shall immediately cancel all the existing orders and agreements of the Supplier with third parties concerning such order.
- 5.1.2 Upon the cancellation of a Purchase Order by HY-Brasil under these circumstances, full and complete settlement of all claims of Supplier with respect to the canceled work shall be made as follows:
 - a) as compensation to Supplier for such cancellation, unless such termination is for the default of Supplier, as depicted in section 5.2 below, HY-Brasil shall pay Supplier the percentage of the total Purchase Order price corresponding to the proportion of the amount of work completed on the date of cancellation which is not recoverable in the normal course of Supplier's business;
 - b) upon HY-Brasil's payment to Supplier in accordance with this paragraph, title to all equipment, materials, work-in-progress, finished products, plans, drawings, specifications, information, special tooling and other things for which Supplier has paid shall vest in HY-Brasil.
- 5.2 HY-Brasil further reserves the right, upon prior written notice, to cancel any or all purchase orders without any burden therefore to HY-Brasil, in case one of the following events occurs:
 - a) composition with creditors or bankruptcy of the Supplier, filing of a petition for voluntary bankruptcy by the Supplier, filing of a petition for involuntary bankruptcy, filing of a petition for composition with creditors, in-court or out-of-court restructuring by the Supplier, or the execution or assignment of property of the Supplier;
 - b) Supplier fails to comply with any of the provisions hereof, in which case HY-Brasil shall be further entitled to: (i) recover from Supplier all damages, losses and liability incurred by HY-Brasil directly or indirectly resulting from Supplier's breach, or (ii) obtain the Products ordered herein from another source with any excess cost resulting therefrom chargeable to Supplier.
- 5.2.1 The remedies provided herein shall be cumulative and in addition to any other remedies provided for at law.
- 5.3 Nothing contained in sections 5.1 or 5.2 above shall be construed to limit or affect any remedies which HY-Brasil may have as a result of default by Supplier.

6. Changes

- 6.1 HY-Brasil may amend a Purchase Order by making changes in drawings, specifications, quantities, delivery schedules, or methods of shipment or packaging on any goods at any time.
- 6.2 If such changes result in an increase or decrease in cost, an equitable adjustment of price and delivery schedules may be made, or HY-Brasil may, at its sole option, cancel the Purchase Order if an agreement on such adjustment cannot be reached. Claims for adjustment must be asserted

by Supplier within ten (10) calendar days counted from the date of the amendment to a Purchase Order.

7. **Warranty**

- 7.1 Supplier warrants that the Products and services covered by a Purchase Order will comply with the applicable specifications, instructions, designs and data and that they will be perfectly suitable for sale, since they will be manufactured with good quality materials, free of defects, and that the Products will be in conditions to be utilized for the purposes for which they are intended. This warranty will be additional to any other warranties, either express, implied or statutory.
- 7.2 The Products shall be warranted for a term of one (1) year or ten thousand (10,000) hours of use, whichever occurs first, commencing on the date the Products are put into use by the end-user (“Warranty Period”). The forgoing warranties shall survive inspection, testing, acceptance and use of the Products, and incorporation of the Products into HY-Brasil’s products. Supplier’s warranty shall be extended to HY-Brasil, its successors, assigns, customers and users of products sold by HY-Brasil.
- 7.3 The payment, inspection or receiving of the Products and/or services does not constitute a waiver of any breach of warranty and does not relieve the Supplier from the obligations assumed as to the quality and adequateness of the Products and/or services supplied by it.
- 7.4 If, during the period between the placement of a Purchase Order and the delivery and acceptance of the Products and/or services covered thereby, HY-Brasil’s representatives review drawings, specifications, or other data developed by Supplier in connection with the Purchase Order and make suggestions or comments or approve such documents and data, such action is only an expression of opinion by HY-Brasil and shall not serve to relieve Supplier of any responsibility for the reliability, quality, rate of output, cost, delivery, performance or any other requirements of the Purchase Order.
- 7.5 Supplier shall reimburse or credit HY-Brasil for costs associated with any defects in materials and workmanship that occur during the Warranty Period as outlined below. These costs include, but are not limited to, HY-Brasil’s cost in purchasing the defective Product, labor to repair and/or replace the Product(s), and reasonable travel time.
- a) HY-Brasil will send Supplier a “Warranty Claim” outlining the expenses that HY-Brasil incurred as a result of the failure of the Products sold by Supplier.
 - b) Supplier will review the Warranty Claim, and within thirty (30) days of receipt of the Warranty Claim, or receipt of a failed part if requested for return, pay HY-Brasil the claimed expenses, or notify HY-Brasil that it disputes the claim and the basis for its dispute. If Supplier fails to respond within the prescribed time, then the provision set forth in subsection (g) below shall apply.
 - c) For all claims, Supplier must provide HY-Brasil with a Product “Inspection Report” that at a minimum, documents the tests and/or measurements of all fit and function characteristics performed on the Product, data to show original Product specification and

failed Product measurements, description of damage to claimed Product(s) with photos and background to any conclusions from analysis, if available.

- d) Supplier may request HY-Brasil to return any Products listed in a Warranty Claim, within ten (10) days of receipt of the Warranty Claim with details of Returned Goods Authorization (“RGA”), “ship to” location.
 - i. Supplier shall choose the method of transportation and carrier, and is responsible for all Product return freight costs. Supplier shall provide HY-Brasil with a specific ship-to location and related carrier details for returned Products.
 - ii. HY-Brasil will not accept any fees or charges associated with inspection and / or testing of returned Products.
- e) If Supplier denies responsibility for a Product’s failure, HY-Brasil may, if Supplier has possession of that Product, require Supplier to return it to HY-Brasil or to any third-party specified by HY-Brasil. Pursuant to provision set forth in subsection (c) above, Supplier shall provide an Inspection Report with the claim response.
- f) HY-Brasil and Supplier will attempt to resolve any disputes they have concerning Supplier’s responsibility for a claim. If the Parties do not resolve the dispute within ninety (90) days after HY-Brasil has submitted a Warranty Claim, either Party may refer the matter to dispute resolution as provided in Section 19 below.
- g) If HY-Brasil has not received a response or payment from Supplier after thirty (30) days from (i) Supplier’s receipt of the Warranty Claim, or (ii) Supplier’s receipt of returned Product(s), whichever comes later, HY-Brasil may offset the amount of the Warranty Claim from any amounts it owes to Supplier.

8. **Inspection and Tests**

- 8.1 HY-Brasil is hereby expressly authorized to, at its sole discretion, examine, inspect and test the Products that are the object of a Purchase Order, including during the period of manufacture and in any event prior to acceptance, at Supplier’s facilities, to ascertain whether the specification provided by HY-Brasil to Supplier are being complied with.
 - 8.1.1 In case HY-Brasil wishes to conduct such inspection, it shall forward to the Supplier a 1-business day prior notice. The assessment shall be made during the regular working hours of Supplier. HY-Brasil shall bear all costs related to that assessment.
- 8.2 It is hereby expressly established that the inspections and/or payments preceding the delivery of the Products covered by a Purchase Order do not constitute a tacit acceptance of the products by HY-Brasil. The acceptance of the Products will only be accomplished with the delivery of the goods in the perfect specifications and conditions verified upon inspection, pursuant to the provisions in section 7 above.
- 8.3 HY-Brasil may, at its sole discretion, examine Supplier’s records, including but not limited to accounting books and inventory records, with the purpose of determining Supplier’s compliance with Purchase Orders issued by HY-Brasil.

8.4 All Products will be subject to final inspection and acceptance by HY-Brasil after delivery to HY-Brasil. If the products delivered do not meet the specifications provided by HY-Brasil or otherwise do not conform with the requirements of a Purchase Order, HY-Brasil shall have the right to reject and return such Products, in whole or in part, as provided for in section 9 below.

9. **Returns**

9.1 The Products which do not comply with the specifications stipulated in a Purchase Order or otherwise do not conform with the requirements of the Purchase Order, at HY-Brasil's sole discretion, may be rejected and returned to Supplier within forty-five (45) calendar days from the date of their receipt, and Supplier will bear all the expenses and risks arising from the return.

9.2 HY-Brasil is expressly authorized to deduct from any payment due to the Supplier the amount corresponding to the Products returned and already paid.

10. **Confidential Information**

10.1 Supplier undertakes to utilize the designs and specifications of HY-Brasil, solely and exclusively for the manufacture of the Products and/or services that are the object matter hereof. Supplier shall keep confidential any information, design, specification or data made available by HY-Brasil, or prepared by the Supplier specifically by virtue hereof, and shall not disclose or make use of said information, design, specification or data for its own benefit or for the benefit of third parties.

10.2 Except as required for the perfect fulfillment of a Purchase Order, Supplier may not copy or allow reproductions of HY-Brasil's designs, specifications, documents or data to be made by any means without the prior written consent of HY-Brasil.

10.3 Supplier shall not disclose to third parties any information whatsoever, slight as it may be, concerning a Purchase Order, without HY-Brasil's written consent

10.4 Supplier may not announce or publish, through any means of communication, that it supplied/supplies Products to HY-Brasil or that it was hired by HY-Brasil to supply the Products or services mentioned in a Purchase Order, without the prior written consent of HY-Brasil.

11. **HY-Brasil's Property**

11.1 In case that HY-Brasil provides Supplier with goods including without limitation, patterns, tools, jigs, dies, equipment or materials furnished or paid for by the HY-Brasil, title to them shall remain with HY-Brasil, notwithstanding the fact that they might be in the possession of Supplier. No articles made therefrom shall be furnished by Supplier to any other party without HY-Brasil's prior written consent.

11.2 Supplier shall keep adequate records of such property, which shall be made available to HY-Brasil upon request, and shall store, protect, preserve, repair and maintain such property in accordance with sound industrial practice, all at Supplier's expense.

- 11.3 Unless otherwise agreed to by HY-Brasil, Supplier shall insure HY-Brasil's interest in such property against all risks of theft, loss or damage (including extended coverage). Copies of certificates of insurance evidencing this coverage will be furnished to HY-Brasil on demand.
- 11.4 In the event that HY-Brasil's property becomes lost or damaged to any extent from any cause while in Supplier's possession, Supplier agrees to indemnify HY-Brasil or replace such property, at Supplier's expense, in accordance with HY-Brasil's request.
- 11.5 At the completion of the manufacturing of the Products / rendering of services requested by HY-Brasil under a Purchase Order, for which HY-Brasil's property was required, Supplier shall request disposition instructions for all such property, or the remainder thereof, whether in its original form or in semi-processed form.
- 11.6 Supplier agrees to make such property available to HY-Brasil at any time and in the manner requested by HY-Brasil, including preparation, packing and shipping as directed. Expenses for preparation for shipment will be for Supplier's account and shipment shall be made F.C.A. HY-Brasil's facility, as F.C.A. HY-Brasil's facility is defined in Incoterms 2010.

12. **Tooling**

- 12.1 Except when otherwise provided for in a Purchase Order, the whole tooling and/or other articles or materials required for the manufacture of the Products or the rendering of services shall be supplied by the Supplier. In case it is supplied by HY-Brasil, it shall be kept in good condition and replaced when necessary by the Supplier after the written consent of HY-Brasil or returned to HY-Brasil upon demand, as provided for in section 11 above.

13. **Insurance**

- 13.1 During the period between the placement of the Purchase Order and the acceptance of the Products and/or services covered thereby, if so requested by HY-Brasil, Supplier shall maintain and keep in force, at its own expense, a comprehensive general civil liability coverage, including products and contractual liability, with a combined single limit of R\$500,000.00 (five hundred thousand reais) per occurrence, for bodily injury and property damage, and, if so requested by HY-Brasil, Supplier shall provide a Certificate of Insurance to HY-Brasil upon request to verify above listed coverage.

14. **Indemnification**

- 14.1 Supplier will defend, hold harmless and indemnify HY-Brasil from and against any liability and expenses (including, without limitation, attorney and other professional fees and disbursements) arising from or in connection with any damages, injuries, third party or consumer claims or demands to recover for third party/consumer damages regardless of their nature, directly or indirectly caused by or arising out of any of the Products supplied by Supplier (regardless of whether such claim or demand arises under civil liability, negligence, contract, warranty, or otherwise), except to the extent such third party damages result from HY-Brasil's fault or negligent actions.

- 14.2 Intellectual Property Indemnification. Supplier shall indemnify and save harmless Buyer, its successors, assigns, customers or users of its products, from and against all loss, liability and

damage, including costs and expenses, resulting from any claim that the manufacture, use, sale or resale of any goods supplied under an order infringe any patent or patent rights, trademark, copyright or other intellectual property right of a third party and Supplier shall, when notified, defend any action or claim of such infringement at its own expense.

15. **Compliance with Laws**

15.1 Supplier agrees to fully observe and comply with all applicable Brazilian Federal, State and Municipal laws, as well as with rules, regulations and environmental standards applicable to the production and commercialization of the Products, and rendering of services ordered.

15.2 Upon request, the Supplier shall submit to HY-BRASIL the certificates and/or evidence of compliance with such laws.

16. **Force Majeure**

16.1 Neither Party may be held accountable in the event of default or delays arising from acts of God or force majeure. Should those events occur, each Party shall notify the other Party in writing on the reason for the delay no later than five (5) calendar days after the date of the event. In the event a force majeure event should occur, Buyer may, on written notice to Supplier, cancel a Purchase Order without liability of any kind.

17. **Assignment**

17.1 Neither these terms of purchase nor any Purchase Order issued by Buyer nor any rights or obligations herein may be assigned by Supplier, nor may Supplier delegate the performance of any of its duties hereunder without HY-Brasil's prior written consent.

18. **Governing Law**

18.1 These terms of purchase and any Purchase Order issued by Buyer shall be governed by and construed as per the material laws of the Federative Republic of Brasil, without giving effect to the conflicts of law principles thereof.

19. **Dispute Resolution.**

19.1 Any unresolved controversy or claim arising out of, or related to, a Purchase Order shall then referred to and settled by arbitration, in São Paulo, in accordance with the rules of the Arbitration Center of the American Chamber of Commerce of São Paulo ("Amcham"). In order to commence an arbitral proceeding, either of the Parties may send a notification to Amcham, which shall send a copy of the notification to the other Party. The Parties shall agree as to the appointment of a sole arbitrator within 10 (ten) days from notice of commencement of the proceeding. In the event that the Parties fail to agree as to the appointment of the sole arbitrator,

the chairman of Amcham shall make such appointment. The sole arbitrator shall apply the laws of Brasil. The language of the arbitration shall be Portuguese. The award, which shall be binding on both Parties, shall be rendered in writing by the arbitrator, within 180 (a hundred and eighty) days as from the institution of the arbitral proceeding (such term being extended only if mutually agreed by the Parties and the arbitrator). The arbitrability of disputes shall also be determined by the arbitrator. The Parties shall equally share the filing and other administrative fees of Amcham and the fees and expenses of the arbitrator. Law 9,307/1996 (the "Brazilian Arbitration Law") shall govern the interpretation and enforcement of this Section 14.6.

19.2 For the purposes established in Article 7 of the Brazilian Arbitration Law, the Parties agree to submit, solely for the resolution of such issues, to the jurisdiction of the courts of the judicial district of São Paulo, State of São Paulo, Brasil.

20. Severability

20.1 In case any one or more provisions contained in these terms of purchase or in a Purchase Order shall be considered invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

21. Delivery of Invoices and Notices

21.1 All invoices concerning a Purchase Order, as well as any other correspondences related thereto, shall be forwarded to the Purchasing Department of HY-Brasil, at the address indicated in the Purchase Order or as otherwise provided by HY-Brasil to Supplier.

22. Costs

22.1 Except as otherwise expressly provided in these terms of purchase or on a Purchase Order, each party assumes full responsibility for all costs and expenses which it incurs in carrying out its obligations under a Purchase Order without the right to reimbursement for any portion thereof by another party. Notwithstanding the foregoing, HY-Brasil shall be reimbursed for any costs and expenses, including attorney's fees, incurred as a result of Supplier's breach of any provision of these terms of purchase or a Purchase Order.

23. Business Partner Code of Conduct

23.1 In addition to the laws contemplated in Clause 15 of these terms, Supplier shall comply with the Business Partner Code of Conduct, available at <http://www.hyster-yale.com>.

24. Execution of Documents

24.1 The Parties agree that for any transactions subject to a Purchase Order or electronic signatures shall be accepted as original signatures, orders may be transmitted and accepted or rejected electronically and any document created pursuant to these terms of purchase or a Purchase Order may be maintained in an electronic document storage and retrieval system, a copy of which shall

be considered an original. Neither Party shall raise any objection to the authenticity of a Purchase Order or any document created hereunder, based on the use of a electronic order or the use of a copy retrieved from an electronic storage system.

24.2 These Terms of Purchase have been accepted by Supplier by means of the acceptance by Supplier of any Purchase Order and evidence the Parties' mutual intent to create binding purchase and sale obligations pursuant to the electronic transmission and receipt of Purchase Orders. A Party's agreement to these Terms of Purchase shall remain in effect until terminated by either party with not less than ninety (90) days prior written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising prior to the effective date of termination.