

# HR2 Parts Terms and Conditions of Sale

1. **OFFER.**

High Reach Company, LLC ("Seller") offers to sell the goods or services being purchased by Purchaser in the quantities and at the prices specified (the "Merchandise"). The prices for the Merchandise are subject to change without notice in accordance with the prices in effect on the date of shipment. All prices are F.O.B. Seller's warehouse or Manufacturer's factory. No order shall be binding upon Seller until accepted by Seller, and Seller reserves the right to reject in whole or in part for any reason whatsoever any order at any time and to revoke the acceptance of any order at any time and from time to time. Purchaser acknowledges that it is aware of the Seller's policies not to accept orders from any customer unless Seller has received assurances satisfactory to it that such customer will provide or has made appropriate arrangements for the initial installation, delivery, normal warranty and post warranty servicing of the Merchandise sold, leased, or otherwise disposed of by such customer, and that by agreeing to these Terms and Conditions, Purchaser is confirming the foregoing assurances. Seller reserves the right to rescind its acceptance or withhold or defer delivery of all or any portion of an order for any sale if Seller shall reasonably conclude that any of the Purchaser's assurances described in the preceding sentence are no longer satisfactory or have not been, are not being, or will not be complied with in a manner satisfactory to Seller. All orders will be placed during normal business hours, Monday through Friday 7AM to 5PM Eastern Standard Time. Any Overnight, 2nd and 3rd day air orders need to be submitted by 2pm eastern time in order to guarantee delivery estimates.

2. **ACCEPTANCE.**

These terms and conditions constitute an offer by Seller and this offer may only be accepted on these exact terms and conditions. No additional or conflicting terms or modifications shall be accepted. These terms and conditions supersede the terms and conditions of any other documents and any additional or conflicting terms or modifications set forth in any other documents are hereby objected to.

3. **SHIPMENT, RISK OF LOSS AND TITLE.**

Shipments of the Merchandise hereunder are F.O.B. Manufacturer's factory or Seller's warehouse, as applicable, and Purchaser assumes all risk of liability for loss, damage, or destruction after delivery of the Merchandise to the carrier. Upon delivery of Merchandise to carrier, Seller retains title, for security purposes only, to all Merchandise until paid in full, and Seller may, at Seller's option, repossess the same upon Purchaser's default in payment hereunder and charge Purchaser with any deficiency. If shipment as originally scheduled by Seller is delayed by Purchaser, Seller reserves the right to invoice Purchaser and store the Merchandise at Purchaser's expense and/or to impose charges and fees in accordance with the Seller's then current policies. All heavy, large and/or over-sized Merchandise shall be shipped by freight truck. Purchaser is responsible for providing appropriate arrangements for being able to accept delivery, e.g., loading dock, forklift. Orders being shipped out of the Continental US; customers must provide your own shipping methods. Feel free to contact us or call 1-855-678-PART (7278) for more assistance on international orders.

4. **PAYMENT.**

All prices for the Merchandise are payable in accordance with the terms set forth herein. Seller may require payment or satisfactory security prior to shipment at its discretion. Invoices for the purchase of Merchandise which are paid beyond the terms set forth herein will carry an interest charge at the rate of two points above the prime rate quoted in the Wall Street Journal for each day of said period until paid. However, in no event will the interest rate used exceed the maximum rate permitted by law. In the event it becomes necessary for Seller to incur attorneys fees or other expenses for the collection of any amount due hereunder, Purchaser agrees to pay, in addition to any other amount set forth herein, the actual amount of such fees and expenses. Including the attorney's fees and expenses incurred prior to and during litigation, through appeal, and for seeking payment of attorney's fees pursuant to this section.

5. **TAXES.**

All prices quoted herein for the Merchandise are exclusive of any city, state or federal sales, use, occupational or privilege taxes, duties, fees, excises or any other taxes or charges which are levied, assessed, or imposed on the manufacture, purchase, sale, delivery, importation, use or any other basis on the Merchandise furnished or any parts thereof. Whenever applicable, a separate charge will be made for such charges, whether noted in the invoice or added subsequently. Purchaser shall bear responsibility for all such taxes and charges and shall be solely responsible for payment thereof.

6. **WARRANTY.**

Purchaser's sole warranty with respect to the Merchandise shall be the standard new product warranty applicable to the Merchandise provided by the Manufacturer thereof and in effect on the date of shipment. In no case shall any new product warranty extend to defects in materials, components or services furnished by third parties or to the erection or installation of the Merchandise performed by third parties. If any repairs or alterations are made or any parts are replaced during the period covered by the new product warranty by an entity not authorized by Manufacturer or not in accordance with authorized Manufacturer's service manuals or with other than parts, accessories, or attachments authorized by Manufacturer for use in the Merchandise, Purchaser shall pay for such repairs or parts without recourse against Seller or Manufacturer, and Seller and Manufacturer shall be relieved of responsibility for fulfillment of the new product warranty with respect to such parts or components and of all repairs, alterations or replacements so made.

In no case shall the new product warranty extend to defects in materials, components or services furnished by third parties. UNDER NO CIRCUMSTANCE SHALL SELLER OR MANUFACTURER BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES WHICH ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY MAY SUFFER OR CLAIM TO SUFFER OR INCUR OR CLAIM TO INCUR AS A RESULT OF ANY DEFECT IN THE MERCHANDISE OR IN ANY CORRECTION OR ALTERATION THEREOF MADE OR FURNISHED BY SELLER, MANUFACTURER OR OTHERS. "Consequential" or "special" damages as used herein includes, but is not limited to, costs of transportation, lost sales, lost orders, lost profits, lost income, increased overhead, labor and materials costs, and costs of manufacturing variances and operational inefficiencies. The maximum liability of Seller under the new product warranty shall be the amount paid to Seller with respect to the Merchandise to which such warranty applies. The new product warranty constitutes the entire warranty as to the Merchandise, and it is expressly agreed that the remedies of Purchaser and those claiming under Purchaser as stated in the warranty are exclusive. Seller does not assume (and has not authorized any other person to assume on its behalf) any other warranty or liability in connection with the Merchandise covered by the new product warranty. SELLER EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND WHATSOEVER AS TO THE MERCHANDISE FURNISHED HEREUNDER, INCLUDING BUT NOT LIMITED TO EXPRESS OR IMPLIED WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSES SOLD, AND DESCRIPTION OR QUALITY OF THE MERCHANDISE. The new product warranty shall be void if, upon the occurrence of any incident involving the Merchandise and resulting in any personal injury or property damage, Purchaser shall fail to notify Manufacturer and Seller within 48 hours of such occurrence or to permit Manufacturer and its representatives to have immediate access to such Merchandise and to all records of or within the control of Purchaser relating to the Merchandise and the occurrence. THE LIMITATION OF LIABILITY PROVISIONS SET FORTH HEREIN AND IN THE NEW PRODUCT WARRANTY SHALL APPLY TO ANY AND ALL CLAIMS OR SUITS BROUGHT AGAINST SELLER OR MANUFACTURER INCLUDING ANY CLAIM BASED UPON NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY OR ANY OTHER LEGAL THEORIES UPON WHICH LIABILITY MAY BE ASSERTED AGAINST SELLER OR MANUFACTURER.

7. **RETURNS.**

The return of any Merchandise to Seller or Manufacturer shall only be permitted in strict accordance with Manufacturer's return policies which are subject to change as determined by Seller in its sole discretion and without prior notice. No returns on specialty items, open seal kits, or electrical items and orders past 30 days from date of purchase. All returns may be susceptible to a 35% restocking fee.

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8. **EXCUSABLE DELAY.**

Any delivery dates agreed to by Seller are only approximate and are subject to change by Seller. In any event, Seller shall not be liable for delays or failures in performance of an order or default in delivery arising out of or resulting from causes beyond its reasonable control and without its fault or negligence. Such causes include, but are not restricted to, acts of God; of the Purchaser; of any branch of government or of the public enemy; fire; flood; strikes or labor matters; freight embargoes; weather; accidents; war; insurrection or riot; failures of and delays by carriers; transportation or utility shortages or curtailments; or default of suppliers or subcontractors due to any such causes. In the event of delay for any such cause, the specified delivery date shall be extended for a reasonable length of time, but not less than the period of delay. Delay in delivery of any installment shall not relieve Purchaser of its obligation to accept remaining deliveries. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY FAILURE TO DELIVER ANY MERCHANDISE TO PURCHASER, ANY DELAY IN THE DELIVERY THEREOF, OR ANY REJECTION OR REVOCATION OF ACCEPTANCE THEREOF BY PURCHASER.

9. **CHANGES BY SELLER.**

Seller reserves the right to make changes in design or additions to or improvements in the Merchandise without liability and to install such change, addition or improvement in any Merchandise previously manufactured.

10. **CANCELLATIONS AND RESCHEDULES BY PURCHASER.**

Cancellation and rescheduling are subject to acceptance by Seller and are also subject to cancellation charges and price increases in accordance with Seller's then current policies. Any reduction in quantities ordered shall constitute a partial cancellation subject to this clause.

11. **BANKRUPTCY.**

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Purchaser, or in the event of the appointment, with or without Purchaser's consent, of an assignee for the benefit of creditors or of a receiver, or if Seller shall reasonably believe that Purchaser is unable to meet Purchaser's debts as they mature, Seller shall be entitled to cancel all of its obligations under this offer and any agreement resulting herefrom, or any unfulfilled part of any such agreement without any liability of Seller whatsoever. Any cancellation shall be without prejudice to Seller's rights.

12. **FORBEARANCE -- NO WAIVER.**

Forbearance or failure of Seller to enforce any of the terms and conditions stated herein, or to exercise any right accruing from default of Purchaser, shall not affect or impair Seller's rights should such defaults continue, nor shall such forbearance or failure be deemed a waiver of Seller's rights in case of any subsequent default of Purchaser.

13. **SEVERABILITY.**

If any provision of this offer or any agreement resulting herefrom is unenforceable or invalid, the offer or agreement shall be ineffective only to the extent of such provision and the enforceability or validity of the remaining provisions shall not be affected thereby.

14. **ASSIGNMENT.**

This offer and any agreement resulting herefrom may not be assigned by Purchaser, in whole or in part, except with the written consent of Seller.

15. **HEADINGS.**

Paragraph headings are for convenience only and shall not be considered in construing or interpreting this Invoice.

16. **APPLICABLE LAW.**

This offer and any agreement resulting herefrom shall be interpreted, and the rights and liabilities of the parties hereto determined in accordance with the laws of the State of Florida. In addition to the rights and remedies reserved herein, Seller shall have all the rights and remedies available under law.

17. **ATTORNEYS FEES.**

In the event of litigation arising from or in any manner related to the purchase and sale of Merchandise, including claims or demands by third parties arising from the use or misuse of Merchandise or any act or omission of Purchaser in connection therewith, the prevailing party shall be entitled to receive from the non-prevailing party its reasonable attorneys' fees and costs.

18. **VENUE AND JURISDICTION.**

The exclusive venue for any claims or litigation between Seller and Purchaser must be the state courts of Seminole County, Florida, and Seller and Purchaser hereby waive any defenses to such venue on any grounds, including inconvenience. Seller and Purchaser each submit to the personal jurisdiction of the state courts of Seminole County, Florida and waive any objections thereto. It is the intent of the parties hereto that this is a mandatory venue and jurisdiction provision and the parties agree to venue and jurisdiction as set forth herein

19. **INDEMNIFICATION.**

Purchaser hereby agrees to indemnify, hold harmless and discharge Seller from any claims or causes of action arising from or relating to the claims of any third parties arising from or in any manner relating to the Merchandise, including its use or misuse or any act or omission of Purchaser, including Purchaser's use, installation, maintenance, repair or replacement of Merchandise or arising from or relating to Purchaser's sale, assignment, loan or other transfer of Merchandise to any third party. The foregoing indemnity obligation shall be deemed to include the claims of third parties for personal injury or property damage arising from or in any manner related to the foregoing.

20. **COMPLETE AGREEMENT.**

This offer, upon acceptance, supersedes all previous agreements, if any, between the parties, as respects the Merchandise, and it constitutes the sole, final and entire contract between them as respects the Merchandise. No change, amendment, or modification or waiver of the terms and conditions set forth herein shall be effective unless made in writing signed by both parties.

Phone: 1-800-860-1648 • Fax: 321-275-2101 • Email: [contactparts@high-reach2.com](mailto:contactparts@high-reach2.com)

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