

Standard Terms and Conditions of Sale



All products furnished by ValvTechnologies (hereinafter "Seller") shall be in accordance with the following terms and conditions unless otherwise stated in writing:

ACCEPTANCE AND COMPLETE AGREEMENT

Buyer's order is binding only when accepted in writing at the principal office of Seller. The terms and conditions of sale are only those stated below, which shall constitute the complete agreement between the parties and may not be altered or modified except in writing duly executed by each party. The parties agree there are no agreements between the parties, or written, with respect to the products sold hereunder (including any made or implied from last dealings) except as expressed herein. No terms and conditions stated in or attached to Buyer's communications to Seller, including but not limited to Buyer's purchase orders the terms of which are hereby rejected, are applicable to these terms and conditions in any way and are not to be considered Buyer's exceptions to the provisions of these terms and conditions. Trade custom, trade usage and past performance are superseded by these terms and conditions and shall not be used to interpret these terms and conditions.

DELIVERY

Delivery dates are estimates only and are not guaranteed. Seller will use every effort to make shipments as scheduled and may make partial shipments. However, the completion of the order is subject to acts of God or the public enemy, fires, floods, unusually severe weather, delays caused by governments (including government priorities, preferences or allocations), delays of suppliers in furnishing materials and services, and any other causes beyond Seller's control.

EXPORTATION

If the products ordered are to be exported from the United States, the quoted shipping dates are subject to receipt of all export documents and authorizations. Regardless of ultimate destination, the prices quoted are based on packing for domestic shipment unless otherwise stated in writing. Buyer agrees to provide Seller in writing with the ultimate destination and identity of the end-user prior to shipment if the products are to be exported. These commodities, technology or software shall be exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to United States law is prohibited.

DOMESTIC DESTINATIONS

The Buyer of items shipping to USA destinations is solely responsible for complying with applicable United States export laws.

PRICES

Prices quoted, unless otherwise stated in writing, are "Ex-Works (EX-W)" Seller's facility and do not include sales, use, excise or similar taxes or duties. Buyer shall pay these taxes directly if the law permits or will reimburse Seller if it is required to pay them. Buyer will provide tax exemption certificates or evidence of tax payment on request.

PAYMENT

Standard payment terms are net thirty (30) days from date of invoice. In the event credit has not been established Seller reserves the right to require payment, or the issuance of an irrevocable letter of credit, in advance of shipment. Any amounts not paid when due shall bear interest at the rate of 1.5% per month or at the highest rate permitted by law (whichever is less), from the date of shipment until paid. Seller reserves a purchase money security interest in each product shipped, which will be satisfied by payment in full. Seller has the right to file a copy of this document as a financing statement.

SOLVENCY

Buyer's order will be deemed a representation that Buyer is solvent and able to pay for the products ordered. If Buyer fails to make payments when due or if bankruptcy or insolvency proceedings are instituted by or against Buyer, or if Buyer makes an assignment for the benefit of creditors, Buyer will be deemed to be in default and

Seller will have the right to terminate its obligations by written notice to Buyer, but such termination will not affect Buyer's obligation to pay for products delivered and works in progress.

CANCELLATION

No products may be returned without prior written approval of Seller. Orders placed with and accepted by Seller may not be canceled except upon seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation charges which shall protect Seller against all costs and losses. Seller reserves the right to cancel any sale hereunder without liability to Buyer (except for refund of monies already paid), if the manufacture or sale of the products is or becomes technically or economically impractical.

MANUFACTURE

Seller reserves the right to discontinue the manufacture of, or change or modify the design and/or construction of the products sold pursuant to these terms and conditions, without incurring any obligation to Buyer.

JURISDICTION AND DISPUTES

These terms and conditions shall be governed in accordance with the law of the State of Texas. All disputes under these terms and conditions shall be resolved by the courts of the State of Texas and the parties all consent to the jurisdiction of such courts, agree to accept service process by mail, and hereby waive any jurisdiction or venue defenses otherwise available.

INSPECTION

All products must be inspected within five (5) calendar days of receipt. If any damage is discovered, a claim must be filed with the carrier. A full report of the damage must be forwarded to Seller so that it can arrange for repair or replacement.

TITLE

Unless otherwise provided on the face hereof, all products furnished hereunder will be shipped "Ex-Works (EX-W)," and title in, risk of loss, and the right of possession to such goods shall pass to the Buyer upon the Seller's delivery to carrier at Seller's shipping facility, and Seller is not responsible for damage or loss in transit, regardless of whether or not Buyer may have the right to reject or revoke acceptance of said products. Seller can arrange for in-transit insurance at Buyer's expense, but will not do so without Buyer's written instructions. Charges for shipping may not reflect net transportation cost paid by the Seller.

WARRANTY

All products that Seller manufactures are warranted, when paid for and properly installed, operated and maintained, to be free from defects in material and workmanship and to conform to the specifications, if any listed on the other side of this form. If no specifications are listed, the products are warranted to conform to Seller's currently published specifications. The warranty period is one year from the date of shipment by the first user of the products. No warranty is given for products or components (such as electric or pneumatic mechanisms) manufactured by companies not affiliated by ownership with Seller, or for products which have been subject to misuse, improper installation, corrosion, or which have been disassembled, modified or repaired by unauthorized persons. Seller must receive written notice of defect within the warranty period. Seller's liability is limited solely to servicing or adjusting any product returned to the factory for that purpose, including replacing any defective parts therein or, at Seller's option, refunding to Buyer the purchase price allocable to the nonconforming product. Buyer must pay packing, crating and transportation costs to and from the factory. At Buyer's request, Seller will make reasonable efforts to provide warranty service at the Buyer's premises, provided the Buyer pays Seller's then current rates for field service and the associated travel and living expenses.

If a fault has been caused by improper installation, maintenance or use, or by abnormal conditions of operation, repairs will be billed at normal rates. If any fault arises, the following steps must be taken: A. Notify Seller of the product model number, serial number and details of the difficulty. If the product or the fault is covered by warranty, an estimate of charges will be furnished before work begins. Seller disclaims all other warranties, whether express,

implied or statutory, fitness for purpose. Seller also disclaims all warranties regarding any ancillary services rendered.

POLLUTION

Buyer agrees to indemnify, defend, and hold Seller harmless against any loss, damage, expense, claim and any other cost or liability (including, but not limited to, fines and penalties to the extent permitted by law, clean-up or other remedial or containment costs, or legal, technical or other professional fees) arising as a result of any pollution, contamination or other loss of damage to the environment or natural resources which arise in connection with any goods or services provided by Seller under the contract, regardless of cause, including without limitation Seller's negligence, strict liability, or other act or omission.

DRAWINGS

Any drawings submitted herewith are only to show the general style, arrangement, and approximate dimensions of the products offered. No work is to be based on drawings unless the drawings are certified. In no event will manufacturing or proprietary drawings be supplied.

CONFIDENTIALITY

Buyer agrees that all drawings, prints and other technical material which Seller provides to Buyer, whether prepared by Seller or by third parties under contract to Seller, contain data which embody trade secrets and confidential know-how of commercial value to Seller or third parties under contract to Seller. Buyer agrees (a) to keep such information confidential; (b) that it will not disclose such information to any other person, corporate division or entity; (c) will not use such information except in connection with the products supplied hereunder; and (d) will not sell, lease, loan or permit any other person, corporate division or entity to use such information for any purpose, without Seller's prior written consent. Nothing herein shall restrict the use of information available to the general public.

INDEMNITY & INSURANCE

Buyer agrees to defend indemnify and hold the Seller (and its agents, representatives, employees, officers, related companies, successors and assigns, and customers) harmless from all claims, demands, actions, damages, and liabilities (including attorney's fees and consequential and incidental damages) arising out of an injury (including death) to any person or damage to any property in any way connected with any act or omission of Buyer, its agents, employees, or subcontractors. Buyer agrees to maintain Workmen's Compensation and Comprehensive General Liability insurance, including property damage coverage, in an amount and form satisfactory to Seller. Upon request, Buyer agrees to provide Seller with certificates evidencing that such insurance is being maintained.

LIMITATION OF DAMAGES

In no event shall seller be liable, in contract, tort, strict liability, laws relating to the protection of the environment, or under any other legal theory, for incidental, indirect, special or consequential damages, regardless of whether it was informed about the possibility of such damages, and in no event shall seller's liability exceed an amount equal to the sales price.

WAIVER

No failure to exercise and no delay in exercising on the part of Seller any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege hereunder preclude further exercise of the same right, power or privilege.

VALIDITY OF PROVISIONS

In the event that any provision or any part or portion of any provision of these Terms and Conditions shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.