



## **Automated Valve & Control General Terms and Condition of Sale**

By acceptance of the goods described herein, the Purchaser expressly acknowledges and agrees as follows:

### **1. Warranty**

The warranty described below applies only to new or unused goods or goods reconditioned by Automated Valve & Control (Seller). The Seller specifically disclaims any warranty for used goods or goods sold as is. For a period of one (1) year after date of purchase of any of the goods described herein, Seller warrants such goods shall remain free from failure due to defects in workmanship & materials incorporated therein by or for Seller provided such failure shall not have been caused or contributed to by improper usage, service or application, improper installation or maintenance, repairs, alterations, or modifications effected by or for the user, misuse, negligence or accident. In the event of failure for which Seller has assumed warranty obligations hereunder, & provided written notification of such failure shall be immediately given to Seller, it agrees to repair, or at its option, to replace the goods sold at its sole expense. Apart from the warranty and undertaking above set forth, or unless otherwise specifically consented to in writing by Seller, Seller assumes no obligation or liability for losses, expense or damages, direct or consequential, suffered or incurred as a result of any failure of, or defect in, the goods described herein, including but not limited such costs, expenses or damages as may result from the necessity to remove, replace restore or transport the goods from any location or service in which they may be used, regardless of the cause of such failure or defect. This warranty extends only to the original Purchaser of the goods and is the only warranty made by Seller in connection therewith. There are no other warranties, express or implied, of any kind given with respect to the goods, their merchantability, fitness for any particular purpose or usage, or otherwise, nor is any person authorized to extend on behalf of Seller any form of warranty other than that above set forth. The goods described herein are not sold or distributed by Seller for personal, family or household purposes, nor are they normally suited for use as such.

### **2. Prices**

Prices and other terms of sale where set forth in current price sheets are subject to change without notice. Stenographic or clerical errors are subject to correction. Prices are subject to stabilization controls, if any, on or after May 1, 1974.

### **3. Acceptance of Orders and Special Orders**

All orders are subject to acceptance by Seller at its home office, Houston, Texas, only. No assignment of the Purchaser's rights may be made without the written consent of the Seller. Orders for special materials are subject to cancellation only upon agreement to make payment for the work performed, material used, and a reasonable profit.

### **4. Terms, Payment and Partial Shipment**

All accounts are payable net 30 days of invoice date, one percent (1%) per month interest charged on accounts after 30 days, or twelve percent (12%) annually. All accounts are payable in the currency indicated on the invoice, free of exchange, collection, or any other charges, if in the sole discretion of Seller, the financial condition of the Purchaser at any time so requires. Seller retains the right to require full or partial payment in advance to set spending limits for credit accounts or to require other adequate assurances of financial responsibility. Seller reserves the right to make partial shipments from time to time and render invoices therefore, which shall be due and payable as provided in said invoices. Unpaid service charges will be considered past due. In the event of default in payment and if same is placed in the hands of an attorney for collection, the purchaser agrees to pay all costs of collection, including reasonable attorney's fees.

### **5. Freight Charges**

Unless otherwise specifically noted, standard shipping charges (calculated by product weight, not including packaging) shall be added or be in addition to the price quoted and Purchaser agrees to pay the same to Seller.

### **6. Taxes**

Unless otherwise specifically noted, the amount of any sales, use, occupancy excise tax, or other tax, of any nature, federal, state, or local, for which Seller is legally liable, either initially or through failure of payment by Purchaser, shall be added or be in addition to the price quoted and Purchaser agrees to pay the same to Seller.

### **7. Unavoidable Conditions**

Seller shall not be liable for failure to deliver or delays in delivery occasioned by causes beyond its control, including, without limitation, strikes, lockouts, fires, embargos, war or other outbreaks of hostilities, acts of God, inability to obtain shipping space, machinery, breakdowns, delays of carriers or suppliers, and governmental acts or regulations.

### **8. Returns and Cancellations**

No product may be returned without Seller's prior written consent. All goods returned are subject to a handling charge plus freight in both directions, restocking fees and charges for any required reconditioning, unless otherwise specified in writing by Seller. Overages, shortages and incorrect material claims must be made in writing within ten (10) days of receipt of goods. Cancellation of orders once placed with and accepted by Seller may be made only with its written consent. Any orders that are cancelled may be subject to cancellation charges.

### **9. No Waiver**

Seller's failure to insist upon any of the terms, covenants, or conditions listed herein or to exercise any right hereunder shall not be construed as a waiver or relinquishment of the future performances of any such term, covenant or condition, or the future exercise of such right or a waiver or relinquishment or waiver of any other term covenant or condition or the exercise of any other rights hereunder.

### **10. Drawings, Data and Confidential Information**

The weights, dimensions, capacities, prices, performance ratings and other data included in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists constitute a guide. These data shall not be binding except to the extent that they are by reference expressly included in the purchase order. Any drawings or technical documents intended for use in the manufacture of machinery, equipment, plants, parts, or other material and any ancillary services associated therewith or a part thereof, and submitted to the Buyer prior or subsequent to the formation of the purchase order, remain the exclusive property of the Seller. They shall not, without the Seller's consent, be utilized by the Buyer or copied, reproduced, transmitted or communicated to an unauthorized third party, provided, however, that the said plans and documents shall be the property of the Buyer if it is expressly so agreed in writing. Any drawings or technical documents intended for use in the construction of the Material or of part thereof and submitted to the Buyer by the Buyer prior or subsequent to the formation of the purchase order remain the exclusive property of the Buyer. They shall not, without Buyer's consent in writing, be utilized by the Seller or copied, reproduced, transmitted or communicated to an unauthorized third party.

### **11. Governing Law**

This contract shall be governed by, construed and enforced in accordance with the laws of the State of Texas.

### **12. Totality of Agreement, Special Provisions, Modifications**

This instrument constitutes the entire agreement of the parties with respect to all matters and things herein mentioned. Purchaser warrants, represents and agrees that it has inspected the goods and otherwise made inquiry review, upon its own behalf, concerning the nature characteristics and quality of the materials and workmanship incorporated therein at or prior to delivery, that it is fully contented and satisfied therewith and has independently determined that the goods are in all respects fit and usable for all purposes for which they are intended to be employed by Purchaser. It is expressly acknowledged and agreed by and between the parties that neither party has, nor is now, relying upon any collateral, prior or contemporaneous agreement: written or oral, assurance or assurances, representation or warranty, of any kind or nature as to or respecting the condition or capabilities of the instrument and the other matters and things, rights and responsibilities herein fixed and described. No modification, waiver or discharge of any term or provision of this instrument shall be implied by law, nor shall any alteration, modification or acquittance of any such term or provision be effective for any purpose unless in writing signed by or upon behalf of the party charged therewith.