

TERMS AND CONDITIONS OF SALE

ASCO Valve Canada (hereinafter called "seller") agrees to sell the equipment covered herein on the following terms and conditions of sale, which supersede any additional or inconsistent terms and conditions of purchase of the buyer. Any alterations of the seller's terms and conditions of sale have no force or effect unless otherwise agreed to in writing.

Terms and conditions of sale as set forth herein, or as changed or modified by written agreement, shall constitute the entire contract of sale between the buyer and the seller. The failure of either buyer or seller to enforce any rights under the contract of sale shall not constitute a waiver of such rights or any other rights under the contract of sale.

1. ORDERS: Orders are subject to acceptance at home office of the seller.

2. PRICES AND DISCOUNTS: All prices and discounts are in accordance with the established price and discount schedules of the seller and are subject to change without notice. Merchandise will be invoiced at prices prevailing at the time of shipment.

All prices are F.O.B. shipping point. Quotations automatically expire thirty (30) calendar days from the date issued and are subject to termination by notice written within that period.

Minimum billing charge: \$150.00 Net. (ValveNet orders excluded)

Subject to establishment of satisfactory credit, terms are strictly net cash thirty days from date of invoice payable in Canadian funds.

3. DESIGNS: All designs and specifications shown in seller's catalogues are subject to change without notice.

4. LIABILITY: The buyer shall remain primarily liable for the purchase price and the seller shall not be obliged to accept any term or condition of payment which will shift said liability to a third person not a party to the contract of sale, whether or not such third person is any Canadian Government, its agents or instrumentalities.

5. SHIPPING DATE: Seller shall not be liable in any way for any default or delay in shipping due to contingencies beyond its control, or the control of its suppliers or sub-contractors, which prevents or interferes with the seller making delivery on the date specified, including but not limited to war, or restraints affecting shipping, delivery of materials or credit as a result of war or war restrictions, non-arrival, delay or failure to procure materials as a result of war or war restrictions, rationing of fuel, strikes, lockouts, fires, bombings, accidents, floods, droughts and any other contingency affecting the seller, its suppliers, or sub-contractors; and the seller shall have the right to cancel a contract of sale or to extend the shipping date in the event that one or more of such contingencies prevent or delay shipments. In the event of delayed or extended shipping dates due to the above causes, and the buyer changes shipping instructions, any additional shipping charges shall be paid by the buyer as a part of the purchase price.

6. WEIGHTS AND DIMENSIONS: Shipping weights and dimensions given in seller's catalogue are as close to actual as practicable but are not guaranteed. No claims will be allowed because of any discrepancy between actual weight or dimensions or material shipped and listed data.

7. SHIPPING AND PACKING: All material is carefully packed for shipment and seller will not be responsible for loss, delay or breakage after having received "in good order" receipts from the transportation company. All claims for breakage, loss, delay and damage should be made to carriers, but seller will render buyer all possible assistance in securing satisfactory adjustment of such claims.

In the absence of directions, goods will be shipped by the method and via carrier seller believes dependable.

Goods held in factory beyond delivery date for convenience of buyer will be invoiced on date of completion and terms of payment will apply as from invoice date. Such goods will be subject to charges for warehousing and other expenses incident to such delay.

8. CANCELLATION: Orders are not subject to cancellation or change in specifications, shipping schedules or other conditions originally agreed upon without seller's written consent and then only upon agreement to compensate seller for loss caused by such cancellation or changes.

9. COST ANALYSIS: No cost analysis of the cost of manufacturing the equipment sold will be supplied and no examination or audit of the seller's books and records will be permitted for any reason whatsoever.

10. GUARANTEE: The seller guarantees its products to be free from defects in material or workmanship over a period of one year from date of shipment from its factory. The seller is not responsible for damage to apparatus through improper installation, application, or attempts to operate it above its rated capacity or voltage, intentionally or otherwise.

If any device is found unsatisfactory under the guarantee the buyer should notify the seller in writing and after receipt of shipping advice, buyer may return it direct to **ASCO Valve Canada** carrying charges prepaid. Such equipment will be replaced or put in perfect operating condition, free of all charges except transportation, and the correction of any defects by repair or replacement by the seller shall constitute fulfillment of all obligations to the purchaser. Seller does not assume responsibility for unauthorized repairs to apparatus, even though defective. Any unauthorized repairs or adjustments shall cancel this guarantee and shall relieve the company from any further responsibility.

Seller shall not be liable for special or consequential damages in case of any failure to meet the conditions of any Guarantee in Shipping Schedule, nor will claims for labour, loss of profits or good will, repairs or other expenses incidental to replacement be allowed.

No other representations, guarantee or warranties, expressed or implied, are made by the seller in connection with the manufacture and sale of equipment.

11. RETURNS FOR CREDIT: No returns for credit will be accepted unless seller's permission has been obtained in each case in advance. Only sizes and designs taken from seller's regular line which are in active demand can be accepted for credit. Credit will be based on prices prevailing at the time of return, or invoiced price, whichever is lower, subject to deduction for handling and an additional deduction for expenses incurred in restoring goods to saleable condition. Obsolete or specially manufactured goods can be accepted for return or credit only to the extent of value to seller in each case. No credit will be issued to other than original purchaser.

12. JIGS, FIXTURES, DIES, ETC.: Any jigs, fixtures, dies, tools or patterns required shall be the property of the seller, regardless of whether the costs of the same are paid by the buyer or not.

13. BOND PREMIUMS: In the event the seller shall be required as a condition of the manufacture and sale of equipment to furnish a performance bond, the buyer shall pay as a part of the purchase price of said equipment all bond premiums and expense in connection therewith.

15. COMPLIANCE WITH LAWS: Seller has complied with all applicable Federal, Provincial and local laws and regulations in connection with the manufacture and sale of all equipment. No responsibility or liability will be taken for import duties, laws, regulations or taxes imposed by any foreign country.

16. TAXES: Any manufacturer's excise tax, sales tax, or tax or duty of any nature whatsoever arising out of or assessed against orders, shall be added to the prices quoted or invoiced and shall be paid by the buyer; and in the event seller is required to pay any such taxes or duties the buyer shall reimburse seller therefore, unless buyer shall provide seller at the time an order is submitted with exemption certificates or other documents acceptable to taxing or customs authorities.

17. ERRORS: All clerical errors are subject to corrections.

18. APPLICABLE LAWS: The contract of sale and the respective rights and obligations of the buyer and seller with regard thereto shall be governed by and construed according to the laws of the Province of Ontario.