

FLUID CONTROL SPECIALTIES TERMS AND CONDITIONS

These conditions apply to all quotations, orders and contracts for Fluid Control Specialties,

1. **CONSTRUCTION AND LEGAL EFFECT:** Our sale to you is limited to and expressly made conditional on your assent to these typed and printed terms and conditions of sale which form a part of the agreement to sell and which supersede and reject all prior writings (including your order), representations, negotiations with respect hereto and any conflicting terms and conditions of yours, any statement therein to the contrary notwithstanding. The sending of the purchase order for the goods referred to herein, whether or not signed by you, or your acceptance of the goods or payment operates as acceptance by you of These Terms. In case of conflict between These Terms and the terms of your purchase order or acceptance, These Terms govern; any different or conflicting terms submitted by you in any purchase order or acceptance shall be deemed objected to by us and shall be of no effect unless specifically agreed to by us in writing. We will furnish only the quantities and goods specifically listed on the face hereof or the pages attached hereto. We assume no responsibility for other terms or conditions of for furnishing other equipment or material shown in any plans and/or specifications for a project to which the goods quoted or ordered herein pertain or refer. Our published or quoted terms and conditions are subject to change without notice prior to acceptance of order.
2. **PRICES:** Unless otherwise noted on the face hereof, prices are net, FCA carrier, our manufacturers factory or our warehouse. Stenographic, clerical and mathematical errors are subject to correction. Until acceptance or order on These Terms, quoted prices are subject to change.
3. **DELIVERY:** Dates for the furnishing of services and/or delivery or shipment of goods are approximate only and are subject to change. Quoted lead times are figured from the later of date of acceptance of order on These Terms of from the date of receipt of complete technical data and approved submittals as such may be necessary. We shall not be liable, directly or indirectly, for any delay in or failure to perform caused by carriers or suppliers or delays from labor difficulties, shortages, strikes or stoppages of any sort, failure or delay in obtaining materials, customer requested order changes, fires, floods, storms, accidents, causes designated acts of God or force majeure by any statute or court of law or other causes beyond our reasonable control.
4. **SHORTAGE, DAMAGE, ERRORS IN SHIPMENT:** Our responsibility ceases upon delivery to carrier. Risk of loss, injury or destruction of property, shall be borne by you from and after our delivery to carrier, and such loss, injury or destruction shall not release you from the obligation to pay the purchase price. You shall note receipt of goods that are not in accordance with the bill of lading or express receipt and you shall make claim against such carrier for any shortage, damage or discrepancy on the shipment per the ICC Code for Freight Claims promptly. You shall inspect and examine all items and goods covered by the order when unpacking crated or boxed goods, and if damage is discovered, leave as is until carriers agent makes an examination and notation on freight or express bill of concealed damage. We will render assistance to help trace and recover lost goods and collect just claims as a business courtesy, but without obligation. We do not guarantee safe delivery.
5. **TAXES:** Our prices do not include sales, use, excise, occupation, processing, transportation, tariffs, duties, or other similar taxes which we may be required to pay or collect with respect to any of the materials covered hereby under existing or future law. Consequently, in addition to the price specified herein, such taxes shall be paid by you, or you shall provide us with a tax exemption certificate acceptable to the appropriate taxing authorities. You shall also assume and pay any import or export duties and taxes, with respect to the materials covered by the order, and shall hold harmless and reimburse us therefrom.
6. **CREDIT AND PAYMENT:** Unless otherwise noted on the face hereof, payment for goods shall be (30) days net in US dollars. Prorated payments shall become due with partial shipments. We reserve the right at any time to suspend credit or to change credit terms provided herein, when, in our sole opinion, your financial condition so warrants. Failure to pay invoices at maturity date, at our election, makes all subsequent invoices immediately due and payable irrespective of terms, and we may withhold all subsequent deliveries until the full account is settled and we shall not, in such event, be liable for non-performance of contract in whole or in part. You agree to pay, without formal notice, 1.5% per month of the amount not paid when due, provided that, if such rate is in excess of applicable governing law, you agree to pay the maximum permitted rate.
7. **CANCELLATION AND CHANGES:** Orders which have been accepted by us are not subject to your cancellation or changes in specifications, except upon our written consent, and we may require, as a condition of such consent, appropriate adjustments in price, delivery schedule and other related terms, and in case of cancellation, cancellation charges. In the event we accept your cancellation, you shall be liable for a cancellation charge equal to the higher of (i) 25% of purchase price or (ii) any loss incurred by us or our manufacturers, including cost of materials, labor, engineering, administrative costs, reconditioning and our profit margin.
8. **DEFERRED SHIPMENT:** If shipment is deferred at your request, payment of the contract price shall become due when you are notified that the equipment is ready for shipment. If you fail to make payment and furnish shipping instructions we may either extend time for so doing or cancel contract. In case of deferred shipment, at your request, storage and other reasonable expenses attributable to such delay shall be payable by you.
9. **LIMITED WARRANTY:** Products, auxiliaries and parts thereof of Fluid Control Specialties or one of the manufacturers represented by Fluid Control Specialties are warranted to the original purchaser for a period of twelve (12) months from the date of shipment from factory, against defective workmanship and material, but only if properly installed, operated and serviced in accordance with manufacturers recommendations. Repair or replacement, at our option, for items will be made free of charge, (FOB) manufacturers facility with removal, transportation and installation at your cost, if proved to be defective within such time, and is your sole remedy with respect to such products. No claim for transportation, labor or special or consequential damages or any other loss, cost or damage shall be allowed. You shall be solely responsible for determining suitability for use in no event shall Fluid Control Specialties or the manufacturer of said products be liable in this respect. Fluid Control Specialties, nor its represented manufacturers, guarantee resistance to corrosion, erosion, abrasion or other sources of failure, nor does Fluid Control Specialties or its represented manufacturers guarantee a minimum length of service. Your failure to give written notice to us of any alleged defect under this warranty within twenty (20) days of its discovery, or attempts by someone other than the manufacturer or Fluid Control Specialties to remedy the alleged defects herein, or failure to return products or parts for repair or replacement as herein provided, or failure to install and operate said products or parts according to the manufacturers instructions, or misuse, modification, abuse, or alteration of such product, accident, fire, flood, or other

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act of God, or failure to pay entire contract price when due shall be a waiver by you of all rights under this warranty. The forgoing guarantee shall be null and void if, after shipment from our factory, the item is modified in any way or a component of another manufacturer, such as but not limited to, an actuator is attached to the item by anyone other than Fluid Control Specialties or one of its manufacturers. All orders accepted shall be deemed accepted subject to this warranty, which shall be exclusive of any other or previous warranty, and this shall be the only effective guarantee or warranty binding on Fluid Control Specialties or one of its manufacturers, despite anything to the contrary contained in the purchase order represented by any agent or employee of Fluid Control Specialties, in writing or otherwise, notwithstanding, including but not limited to implied warranties.

THE FOREGOING REPAIR AND REPLACEMENT OBLIGATIONS ARE IN LIEU OF ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES, INCLUDING ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY OR OTHERWISE, EXPRESSED OR IMPLIED IN FACT OR BY LAW, AND STATE FLUID CONTROL SPECIALTIES AND ITS MANUFACTURERS ENTIRE AND EXCLUSIVE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY CLAIM IN CONNECTION WITH THE SALE AND FURNISHING OF SERVICES, GOODS OR PARTS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION OR OPERATIONS.

10. **INTELLECTUAL PROPERTY:** We or our manufacturers will indemnify and hold harmless from any amount that you are required to pay to a third-party pursuant final, non-appealable court order as a result of such third-party's claim that a product sold hereunder infringes any United States patent or copyright of such third party; provided that our obligation of indemnification is contingent upon (a) your notifying us of any such claim within 20 days of receipt thereof, (b) your providing us with exclusive control of the defense and/or settlement. In the event of such a successful infringement claim by the third party, at our option, we shall either (i) modify the product sold hereunder so that it performs comparable functions without infringement, (ii) obtain a royalty-free license for you to continue using the infringing product or (iii) refund to you the depreciated fair market value of the infringing component. We shall have no obligation under this Section to the extent a claim is based upon (a) the combination, operation or use of the product with the equipment, products, hardware, software, systems or data what was not provided by us, if such infringement would have been avoided in the absence of such combination, operation or use, or (b) your use of the product in any manner inconsistent with the manufacturers written instructions regarding the use of such product. This Section states our liability and your exclusive remedy with respect to any alleged infringement arising from the use of the products sold hereunder or any part thereof and is subject to the other limitations contained in These Terms.

11. **LIMITATION OF LIABILITY:** IN NO EVENT SHALL FLUID CONTROL SPECIALTIES OR ITS MANUFACTURERS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, AND LIABILITY, UNDER NO CIRCUMSTANCES, WILL EXCEED THE CONTRACT PRICE FOR THE GOODS AND/OR SERVICES FOR WHICH LIABILITY IS CLAIMED. ANY ACTION BY YOU FOR BREACH OF CONTRACT MUST BE COMMENCED WITHIN 12 MONTHS AFTER THE DATE OF SALE.

12. **GOODS FOR EXPORT:** If the ultimate destination of the goods is outside of the United States, you will designate such country on your purchase order. In the event that you purchase goods for export without so notifying us, you will have sole liability and shall defend and indemnify us for any loss or damage (including without limitation, claims of governmental authorities) arising from the export from the United States or import into another country of such goods, including, without limitation, those related to packaging, labeling, marking, warranty, contents, use, or documentation of goods. You have sole responsibility for obtaining any required export licenses. You will not take, and will not solicit us to take, any action which would violate any anti-boycott or any export or import statutes or regulations of the United States or other governmental authorities and shall defend and indemnify us for any loss or damage arising out of or related to such actions.

13. **PROPRIETARY INFORMATION:** We retain title to all engineering and production prints, drawings, technical data, and other intellectual property, information and documents that relate to the goods and services sold to you. Unless advised by us in writing to the contrary, all such information and documents disclosed or delivered by us to you are to be deemed proprietary to us and shall be used by you solely for the purpose of inspection, installation, and maintenance and not used by you for any other purpose.

14. **ARBITRATION:** Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The venue for such proceedings shall be Sanford, FL or a venue selected by a Fluid Control Specialties manufacturer.

15. **TEXAS WAIVER OF CONSUMER RIGHTS:** If you are entitled to its protection, you hereby agree to waive your rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq., Business & Commerce Code, a law that gives consumers special rights and protections. You warrant that, after consultation with an attorney of your own selection, you voluntarily consent to this waiver.

16. **APPLICABLE LAW:** The rights and duties of the parties shall be governed by laws of the State of Florida, or of the state in which the manufacturer Fluid Control Specialties represents, is located.

17. **NO OTHER CONTRACT PROVISIONS; OTHER:** This is the entire agreement with respect to the products. Terms and conditions of your order shall be without force and effect, except to the extent identical herewith. No dealer, broker, branch manager, agent, employee or representative of ours has any power or authority except to take orders for our products and to submit the same to us, at our facility, for our approval and acceptance on the terms herein or rejection. There are no representations, agreements, obligations, or conditions, expressed or implied, statutory or otherwise, relating to the subject matter hereof, other than herein contained. Fluid Control Specialties shall refer to Fluid Control Specialties and its affiliates and represented manufacturers. If any provision hereof is invalid or not enforceable under applicable law, the remaining provisions shall remain in full force and effect. Any assignment of your rights hereunder without our consent (which shall not be unreasonably withheld) shall be void. These Terms shall be binding on your successors and assigns. Our failure to require your performance of any of These Terms shall not serve as a waiver of or diminish our rights to require strict performance of such provision of These Terms.