

## VAL-MATIC VALVE AND MFG. CORP. PURCHASE ORDER TERMS AND CONDITIONS

**1. ACCEPTANCE OF PURCHASE ORDER.** Agreement by Seller to furnish the products, materials or services hereby ordered, or its commencement of such performance, or acceptance of any payment, shall constitute acceptance by Seller of this Purchase Order subject to these terms and conditions. In the event that this Purchase Order is silent with respect to any terms, Buyer will not be bound to any terms to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions of purchase herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing. Modifications hereof or additions hereto, to be effective, must be made in writing and signed by Buyer's purchasing representative. Therefore, absent any such written agreement from Buyer, acceptance of this Purchase Order is wholly limited to the terms and conditions stated herein.

### **2. DEFINITIONS.**

"Buyer" means Val-Matic Valve & Mfg. Corp. to which Seller is providing Products or Services under the Contract. "Contract" means either the Contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by Seller in writing for sales of the Products or Services together with these Terms and Conditions, Seller's final quotation, the agreed scope(s) of work, and Seller's order acknowledgement. In the event of any conflict, the Terms and Conditions shall take precedence over other documents included in the Contract.

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum derived products, or by-products, or any other chemical substance, material, or emission, that is regulated, listed or controlled pursuant to any national, state, provincial, or local law, statute, ordinance, directive, regulation or any other legal requirement of the United States ("U.S.")

"Products" means equipment, parts, materials, supplies, software and other goods Seller has agreed to supply the Buyer under the Contract.

"Seller" means the entity providing the Products or performing Services under the Contract.

"Services" means the services the Seller has agreed to perform for the Buyer under the Contract.

**3. PRICES.** Seller's price shall not exceed the price specified on the Purchase Order ("PO"). If no price is specified, it is agreed that the price shall be the price last quoted to Buyer, or the prevailing market price, whichever is lower. Unless otherwise stated, the price of the material includes all applicable federal, state and local sales and use taxes.

**4. DELIVERY.** Seller shall include the PO number and the Supplier Name on all Bills of Lading. Buyer will accept an over-run of non-stock products of special manufacture, not to exceed five percent (5%) of the individual product. Buyer shall be privileged to insist upon delivery to within five percent (5%). No other deviation from the quantities specified may be made without the Buyer's approval. Buyer may from time to time, change delivery schedules or direct temporary suspension of scheduled shipments. Shipments made in excess of the quantity specified may be rejected and returned at Seller's expense. Buyer's production schedules are to be based upon the material being delivered to the Buyer at the agreed time. If at any time Seller has reason to believe that deliveries will not be scheduled, written notice in the form of an e-mail, or fax setting forth the cause of the anticipated delay shall be given immediately to Buyer and must be confirmed by the Buyer. All costs necessary to expedite and/or secure delivery after expiration of acknowledge delivery date, or necessary to secure promise date, shall be for account of Seller. Buyer can cancel the contract due to late deliver by Seller. Buyer shall not be responsible for materials fabricated in advance of time necessary to comply with delivery schedule. Each delivery called for by the schedule specified shall constitute a separate Contract, and buyer shall have the right to refuse to accept any part of the total quantity not delivered in accordance therewith. If a carrier or transportation method is specified in the PO and an alternate method is used without the advanced approval of the Buyer, Seller shall be responsible for any increase in the cost of shipment.

**5. PACKAGING.** Seller shall use all reasonable means to comply with any packaging, loading or bracing requirements specified in any order. If no packaging, loading or bracing requirements are specified by the Buyer, Seller shall comply with the minimum requirements customarily applied by Seller to the method of transportation used for such goods.

**6. WARRANTIES.** Seller expressly warrants that all the materials or services covered by this Contract will (a) conform to the specification, drawings or other descriptions furnished or specified by the Buyer, (b) be of good material and workmanship, (c) be free from defects, (d) be fit for purpose intended. Such warranties shall survive delivery and shall not be deemed waived either by reason of Buyer's acceptance of the same or by payment for the same.

**7. QUALITY PROGRAM; CAPACITY.** Seller shall maintain a quantity assurance program satisfactory to Buyer to ensure that products consistently satisfy Buyer's quality requirements. Seller shall maintain sufficient production capacity to ensure that Buyer's firm orders for products are promptly and regularly filled.

**8. INSPECTION.** All material shall be received subject to Buyer's rights of inspection and rejection. Defective material or material not in accordance with Buyer's specification will be held for Seller's instructions and at Seller's risk, and if Seller so directs, will be returned at Seller's risk. No material rejected by Buyer as rejected shall be replaced without a new order. Seller shall have no right to cure the tender by substituting a conforming tender, either prior to or after the date of delivery. Buyer shall have the right to inspect at any time(s), any portion of the material in process at Seller's plant or place of manufacture or processing. Buyer reserves the right to inspect all goods, but such inspection does not relieve Seller of its obligations under the Contract. Buyer may reject shipments that are nonconforming in any way. Buyer's right to reject nonconforming deliveries extends to those that arrive late (or early), in the incorrect quantity, or improperly labeled. Inspection and acceptance do not relieve Seller of liability for latent defects. Risk of loss of nonconforming goods remains with Seller.

**9. CHANGES IN SPECIFICATIONS.** Buyer reserves the right at any time to make changes in drawings and specifications as to any material and/or work covered by this offer. Any difference in price or time for performance resulting from such changes shall be adjusted to a mutually agreed upon amount and the Contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within thirty (30) days from receipt by Seller of the change. Any changes must be issued in writing and signed by an authorized representative of Buyer. Seller must notify Buyer if there will be any additional costs or delays on account of such changes.

**10. BUYER'S DESIGNS, TOOLS, PATTERNS, EQUIPMENT, ETC.** Unless otherwise agreed in writing, all designs, tools, samples, patterns, drawings, blue prints, and any other property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, for use in performance of the Contract resulting from acceptance of this offer, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyer's instructions, shall be used only if filling orders from the Buyer, shall be held at the Seller's risk, and shall be kept insured by the Seller at the Seller's expense while in its custody or control in any amount equal to the replacement cost thereof, with loss payable to the Buyer. Copies of policies or certificates of such insurance will be furnished to Buyer on demand.

**11. CONFIDENTIALITY.** Seller will hold in confidence all information provided by Buyer (including this PO and terms) and all drawings, specifications, or other documents prepared by Seller for use by Buyer in connection with this PO. Seller will not advertise or publish the fact that Seller is a supplier to Buyer without Buyer's prior written consent.

**12. PATENTS.** Seller warrants that the material purchased hereunder does not infringe any U.S. or foreign letters patent and covenants and agrees to hold harmless and protect Buyer, its successors, assigns, customers and users of its product, against any claim or demand based upon such infringement, and after notice, to appear and defend at its own expense any suit at law or in equity arising there from.

**13. INDEMNIFICATION; INSURANCE.** Seller agrees to indemnify, defend and hold harmless Buyer, Buyer's affiliates, and Buyer's affiliates respective directors, officers, employees, agents, successors, assigns, consultants, and business invitees from and against any and all claims and demands, liabilities, losses, damages, costs, enforcement procedures and expenses, of whatever nature (including costs, litigation expenses and counsel fees incurred in connection therewith) arising out of injury to, or death of, any person whatsoever or injury or damage to property of any kind by whomsoever owned, or the environment, arising out of or related to, directly or indirectly the following:

- A. the performance or nonperformance by Seller, Seller's subcontractors or Seller's agents of any work which is the subject of this PO.
- B. Seller's non-compliance with Seller's obligations under any PO or these Terms and Conditions or any laws or regulations, including, without limitation, those applicable to packaging, classification, labeling, training, handling, and transportation of hazardous materials, whether such action is brought by a governmental agency or other person or entity, except to the extent that such claims result from Buyer's gross negligence or willful misconduct;
- C. any claim of defect in the design, materials, manufacture or sale of the products;
- D. any recall caused by products provided by Seller or its agents;
- E. Seller's breach of any representation, warranty, or covenant in these Terms and Conditions or in any PO;
- F. Seller's non-compliance with all applicable environmental requirements or product regulatory standards; or
- G. the EU Product Liability Directive 1999/34/EC of the European Parliament and of the Council of May 10, 1999. Seller further agrees to furnish upon Buyer's request an insurance carrier's certificate showing that Seller has adequate Worker's Compensation, Public Liability, and Property Damage insurance coverage. Such certificate shall set forth the amount of coverage, policy number and date of expiration. If Seller is a self-insurer, the Certificate of the Department of Labor and Industry of the state in which said labor is to be performed shall be furnished by such Department directly to Buyer. All designs, tools, patterns, equipment, drawings and any other information described in item 9

furnished by Buyer, shall be protected against loss or damage by insurance purchased by Seller which is acceptable to buyer. Seller is liable for any damage to property of Buyer caused by the negligence of Seller or its contractor or any of their agents, servants, employees, from any cause whatsoever. Seller agrees to indemnify Buyer against all liabilities, claims or demands for injuries or damages of person or property, or otherwise growing out of the defective material or workmanship in the articles supplied herein, or out of the performance of the Contract resulting from acceptance of this PO.

#### 14. SHIPMENT OF HAZARDOUS ITEMS.

- A. The shipping term, risk of loss and title transfer shall be Delivered Duty Paid to Buyer's receiving facility [INCOTERMS 2020].
- B. Seller shall ensure that all personnel shall receive hazardous Items training as required by applicable regulations. Seller shall further ensure that a 24-hour emergency response number (domestic and international) is supplied on the shipping documents for hazardous Items and that the appropriate material safety data sheet has been given to the proper emergency response organization prior to shipment. Seller shall be shown as the "shipper" on all documents relating to the shipment of any hazardous Items provided under the PO. Buyer is not to be shown as the 'shipper' on any such documents.
- C. Seller may use Buyer's designated carriers for the shipment of hazardous Items provided that all the conditions in this Section are met. Seller must use the carrier delivery receipt for all shipments to Buyer's specified facilities. The following fields must be completed on the Bill of Lading form: Forwarding Agents Commission, Dock and Accounting Distribution. Questions regarding this information should be directed to the Buyer's purchasing representative. Upon shipment, Seller shall forward a copy of the completed Bill of Lading form to the Purchasing Department.
- D. Hazard Communication. For all Items, Seller shall provide Buyer with the appropriate hazard classifications and warning messages that should appear on product labels as required by Environmental Requirements (as defined below), and other laws and regulations of the United States and non-United States jurisdictions in which such Items will be distributed. Seller shall develop, revise, update and transmit an electronic copy of the current (prepared or revised not more than three years prior to the date of the relevant PO) safety data sheets ("SDS's") for all Items purchased, in the appropriate language and format that may be required by the laws of the jurisdictions in which the Items will be distributed. When applicable, Seller shall format such SDS's and labels to identify the Item as a hazardous product and shall conform to OSHA's current Hazard Communication Standard in alignment with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). "Environmental Requirements" means all United States and foreign (non-United States) federal, state, provincial, or local laws, regulations, ordinances, orders, or other pronouncements now in effect or as hereafter amended, that have the force or effect of law, relating to human health or safety and the protection, preservation, or remediation of the environment, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Occupational Safety and Health Act, 29 U.S.C. Section 1261 et seq., the Federal Hazardous Substances Act, 15 U.S.C. Section 1261 et seq., and the Emergency Planning and Community Right to Know Act, 42 U.S.C. Section 11001 et seq.
- E. Seller shall comply with all laws administered by the U.S. Department of Transportation ("USDOT"), and USDOT and United Nations/North America (UN/NA) rules and regulations, including but not limited to the U.S. Federal Hazardous Items Transportation Act, 49 U.S.C. Section 5101 et seq., the UN/NA 1993 regulation regarding flammable liquids, international regulations issued by the International Civil Aviation Organization (ICAO Technical Instructions), and the IMDG Code, that regulate the transportation of hazardous Items and apply to transportation of the Items while under Seller's possession or reasonable control.

15. SETOFF, COUNTERCLAIM, ASSIGNMENT. All claims for money due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any other of Buyer's orders with Seller. The Contract resulting from acceptance of this offer shall not be assigned by Seller without Buyer's written consent and if assigned, Buyer's said right of setoff or counterclaim against Seller shall remain whether such setoff or counterclaim arose before or after such assignment by Seller. During the term of this Contract, in the event there is a "Change in Ownership or Control" (defined herein) of Seller, then Buyer shall have the option of immediately terminating this Contract (including any related Purchase Order) by giving written notice of its intent to terminate to Seller. For purposes of this Section, a "Change in Ownership or Control" of Seller, or a parent company of Seller, as appropriate, shall be deemed to have occurred if and when any one or more persons or entities individually or jointly purchases substantially all of the assets of Seller or is or becomes a beneficial owner, directly or indirectly, of securities representing twenty-five percent (25%) or more of the combined voting power of the then outstanding equity of Seller or the parent company of Seller. Seller shall deliver to Buyer commercially reasonable notice of any impending "Change in Ownership or Control" of Seller.

16. APPLICABLE LAWS. Seller represents that the material covered by this offer was not manufactured and is not being sold or priced in violation of any federal, state, or local law, regulation or requirement. Seller agrees that the material will be produced in compliance with the Fair Labor Standards Act. This Contract shall be deemed to have been made in the State of Illinois and shall be governed by, construed and interpreted in accordance with the laws of the State of Illinois. With respect to any dispute, controversy or claim arising out of or relating to this Contract (including the Purchase Order and these Terms and Conditions) or the relationship between the parties, the Seller and buyer agree and consent to jurisdiction of and exclusive venue in the courts of the State of Illinois.

17. CANCELLATION, TERMINATION, AND REMEDIES. In addition to all other rights, Buyer reserves the right to cancel all or any part of the undelivered portion of this offer if Seller does not make delivery within the time specified, time being of the essence of this offer, or if Seller breaches any of the terms hereof, including the warranties of Seller, or if Seller fails to make progress in the work as to endanger performance. Buyer shall also have the right to terminate this PO or any part thereof, and cancel all or any part of the undelivered portion in the event of the happening of any of the following: insolvency of Seller; filing of a voluntary petition in bankruptcy; filing of any involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty days from the date of such filing; or the execution of Seller of any assignment for the benefit of creditors. Buyer shall have no obligations to Seller in respect of the cancelled portion of this PO and Buyer's liability shall be limited to payment for the delivered portion of this PO at the rate specified on the face hereof (reflecting quantity prices as though this PO had done to full completion). In addition to such right of cancellation, Buyer may terminate this order in whole or in part at any time by written notice. Buyer's liability for damages for a breach of this offer by Buyer shall be limited to compensatory damages only and shall not include any special or consequential damages of any kind, including loss of profits. If termination or cancellation is occasioned by Seller's breach of any condition hereof, including breach of warranty, or by Seller's delay, except delay due to considerations beyond the Seller's control and without Seller's fault or negligence, Seller shall not be entitled to any claim or cost and Buyer shall have against Seller all remedies provided by law and equity. No claim or right arising out of a breach of any term or condition hereof can be discharged in whole or in part by a waiver of renunciation of the claim or right unless the waiver or renunciation is in writing, supported by considerations, and is signed by both Buyer and Seller.

18. ENTIRE AGREEMENT. Buyer and Seller acknowledge that these Terms and Conditions and Purchase Order (a) constitute the entire agreement between them with regard to the sale or transfer of the products and services sold, (b) supercedes all prior oral or written statements of any kind made by the parties or their representatives, and (c) may not be amended, modified, or supplemented except by written agreement executed by both parties.

19. FORCE MAJEURE. Neither party shall be in default hereunder by reason of any failure or delay in the performance of any obligation under this agreement where such failure or delay arises out of any cause beyond the reasonable control of the party and without the fault or negligence of such party. Such causes shall include, without limitation, pandemics, storms, floods, other acts of nature, fires, explosions, riots, war or civil disturbance, strikes or other labor unrest, embargoes, restrictive governmental laws, Acts of God, or other similar causes beyond the control of either party. In the event that any such events prevent or delay either party from performing hereunder, the parties will cooperate with each other to minimize and mitigate any potential damages that one or both parties may suffer as a result of such failure or delay in performance and to assist each other in overcoming the causes for the failure or delay in performance.

20. SEVERABILITY. The invalidity of any part of the Contract does not affect the validity of any other part.

21. SUBSTITUTION. Any substitution of goods is prohibited without Buyer's written consent.