



Sales Order Terms & Conditions

A-720-011

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TERMS AND CONDITIONS OF SALE

1. **Definitions:** As used herein, "SELLER" means iQ Valves and "BUYER" means the party identified on the face of this invoice.

2. **Terms and Conditions of Sale:** All descriptions, quotations, proposals, offers, acknowledgements, acceptances and sales of SELLER's products are subject to and shall be governed exclusively by the terms and conditions stated herein. BUYER's acceptance of any offer to sell is limited to these terms and conditions. Any terms or conditions in addition to, or inconsistent with those stated herein, proposed by BUYER in any acceptance of any offer by SELLER, are hereby objected to. No such additional, different or inconsistent terms and conditions shall become part of the contract between BUYER and SELLER unless expressly accepted in writing by SELLER. SELLER's acceptance of any offer to purchase by BUYER is expressly conditional upon BUYER's assent to all the terms and conditions stated herein, including any terms in addition to, or inconsistent with those contained in BUYER's offer. Acceptance of SELLER's products shall in all events constitute such assent.

3. **Payment:** Payment shall be made by BUYER within thirty (30) days from the date of delivery of the items purchased hereunder. SELLER reserves the right to charge interest on all past due amounts. Any claims by BUYER for omissions or shortages in a shipment shall be waived unless SELLER receives notice thereof within 30 days after BUYER's receipt of the shipment.

4. **Delivery:** Unless otherwise provided, delivery shall be made F.O.B. SELLER's location. Regardless of the method of delivery, however, risk of loss shall pass to BUYER upon SELLER's delivery to a carrier. Any delivery dates shown are approximate only and SELLER shall have no liability for any delays in delivery.

5. **Limited Warranty:** SELLER warrants to original BUYER that the items sold hereunder shall be free from defects in material or workmanship under normal use for a period of one (1) year from date of purchase. This limited warranty does not cover any defect, malfunction, or failure caused by or resulting from improper or unauthorized service maintenance, installation, repair, or use not within the working specifications for which the items sold hereunder was designed, or from abuse, neglect, tampering with, opening, accident, or any other cause beyond the control of SELLER.

THIS WARRANTY COMPRISES THE SOLE AND ENTIRE WARRANTY PERTAINING TO ITEMS PROVIDED HEREUNDER. SELLER MAKES NO OTHER WARRANTY, GUARANTEE, OR REPRESENTATION OF ANY KIND WHATSOEVER. ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY AND FITNESS FOR PURPOSE, WHETHER EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, TRADE, USAGE, OR COURSE OF DEALING ARE HEREBY DISCLAIMED.

NOTWITHSTANDING THE FOREGOING, THERE ARE NO WARRANTIES, WHATSOEVER ON ITEMS BUILT OR ACQUIRED WHOLLY OR PARTIALLY, TO BUYER'S DESIGNS OR SPECIFICATIONS.

6. **Limitation of Remedy:** SELLER'S LIABILITY ARISING FROM OR IN ANY WAY CONNECTED WITH THE ITEMS SOLD VIA THIS CONTRACT SHALL BE LIMITED EXCLUSIVELY TO REPAIR OR REPLACEMENT OF THE ITEMS SOLD OR REFUNDED OF THE PURCHASE PRICE PAID BY BUYER AT SELLER'S SOLE OPTION. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS ARISING FROM OR IN ANYWAY CONNECTED WITH THIS AGREEMENT OR ITEMS SOLD HEREUNDER, WHETHER ALLEGED TO ARISE FROM BREACH OF CONTRACT, EXPRESS OR IMPLIED WARRANTY, OR IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY.

7. **Changes, Reschedules and Cancellations:** BUYER may request to modify the designs or specifications for the items sold hereunder as well as the quantities and delivery thereof, or may request to cancel all or part of this order, however, no such requested modification or cancellation shall become part of the contract between BUYER and SELLER unless accepted by SELLER in a written amendment to this Agreement. Acceptance of any such requested modification or cancellation shall be at SELLER's discretion, and shall be upon such terms and conditions as SELLER may require.

Notwithstanding the above provision, all cancellations shall be subject to a cancellation charge that is equivalent to 50% of the purchase order or the cost of the work in process, whichever is greater.

8. **Special Tooling:** A tooling charge may be imposed for any special tooling, including without limitation, dies, fixtures, molds and patterns, acquired to manufacture items sold pursuant to this contract. Such special tooling shall be and



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remain SELLER's property notwithstanding payment of any charges by BUYER. In no event will BUYER acquire any interest in apparatus paid for by and belonging to SELLER which is utilized in the manufacture of the items sold hereunder, even if such apparatus has been specially converted or adapted for such manufacture and notwithstanding any charges paid by BUYER. Unless otherwise agreed, SELLER shall have the right to alter, discard or otherwise dispose of any special tooling or other property in its sole discretion at any time.

9. **BUYER's Property:** Any designs, tools, patterns, materials, drawings, confidential information or equipment furnished by BUYER or any other items which become BUYER's property, may be considered obsolete and may be destroyed by SELLER after two (2) consecutive years have elapsed without BUYER placing an order for the items which are manufactured using such property. SELLER shall not be responsible for any loss or damage to such property while it is in SELLER's possession or control.

10. **Taxes:** Unless otherwise indicated on the face hereof, all prices and charges are exclusive of excise, sales, use property, occupations or like taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the items sold hereunder. If any such taxes must be paid by SELLER or if SELLER is liable for the collection of such tax, the amount thereof shall be in addition to the amounts for the items sold. BUYER agrees to pay all such taxes or to reimburse SELLER therefore upon receipt of its invoice. If BUYER claims exemption from any sales, use or other tax imposed by any taxing authority, BUYER shall save SELLER harmless from and against any such tax, together with any interest or penalties thereon which may be assessed if the items are held to be taxable.

11. **Intellectual Property Rights:** SELLER shall have no liability for infringement of any patents, trademarks, copyrights, trade dress, trade secrets or similar rights except as provided in this Part 11. SELLER will defend and indemnify BUYER against allegations of infringement of U.S. patents, U.S. trademarks, copyrights, trade dress and trade secrets (hereinafter 'Intellectual Property Rights'). SELLER will defend at its expense and will pay the cost of any settlement of damages awarded in an action brought against BUYER based on an allegation that an item sold pursuant to this contract infringes the Intellectual Property Rights of a third party. SELLER's obligation to defend and indemnify BUYER is contingent on BUYER notifying SELLER within ten (10) days after BUYER becomes aware of such allegations of infringement, and SELLER having sole control over the defense of any allegations or actions including all negotiations for settlement or compromise. If an item sold hereunder is subject to a claim that it infringes the Intellectual Property Rights of a third party, SELLER may, at its sole expense and option, procure for BUYER the right to continue using said item, replace or modify said item so as to make it noninfringing, or offer to accept return of said item and return the purchase price less a reasonable allowance for depreciation. Notwithstanding the foregoing, SELLER shall have no liability for claims of infringement based on information provided by BUYER, or directed to items delivered hereunder for which the designs are specified in whole or part by BUYER, or infringement resulting from the modification, combination or use in a system of any item sold hereunder. The foregoing provisions of this Part 11 shall constitute SELLER's sole and exclusive liability and BUYER's sole and exclusive remedy for infringement of Intellectual Property Rights.

If a claim is based on information provided by BUYER or if the design for an item delivered hereunder is specified in whole or in part by BUYER, BUYER shall defend and indemnify SELLER for all costs, expenses or judgments resulting from any claim that such item infringes any patent, trademark, copyright, trade dress, trade secret or any similar right. BUYER will not take legal action against SELLER for any Patents owned by BUYER which may be infringed by SELLER relating to the manufacture of any existing item. This provision shall survive termination or expiration of this order.

12. **Force Majeure:** SELLER does not assume the risk of and shall not be liable for delay of failure to perform any of SELLER's obligations by reason of circumstances beyond the reasonable control of SELLER (hereinafter 'Events of Force Majeure'). Events of Force Majeure shall include without limitation, accidents, acts of God, strikes of labor disputes, acts, laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of materials and any other cause beyond SELLER's control.

13. **Entire Agreement/ Governing Law:** The terms and conditions set forth herein, together with any amendments, modifications and any different terms or conditions expressly accepted by SELLER in writing, shall constitute the entire Agreement concerning the items sold, and there are not oral or other representations or agreements which pertain thereto. This Agreement shall be governed in all respects with the law of the State of Florida. No actions arising out of the sale of the items sold hereunder or this Agreement shall be brought by either party more than two (2) years after the cause of action accrues.