



1. Contracts

- 1.1 The following terms and conditions shall be included as a part of any purchase order(s) given to Valvology Pty Ltd (herein after referred to as "Valvology").
- 1.2 Purchase orders having any language or statements which modify, make additions to, contradict, or are in anyway inconsistent with the terms and conditions stated herein, will only be accepted by and binding upon Valvology if, and only if, such language or terms in such purchase orders are specifically approved by officers of Valvology in writing.
- 1.3 Orders are not considered accepted, and thus a contract, until received and acknowledged in writing by Valvology.
- 1.4 Verbal orders will not be considered a firm order.
- 1.5 Quotations made by Valvology are for immediate acceptance unless Valvology specifically states in writing a definite time period of validity within which the quotation must be accepted in whole to be valid.

2. Prices

- 2.1 All orders released for immediate shipment will be invoiced at the prices in effect in time order is received by Valvology.
- 2.2 Any orders whose delivery is delayed per the customer's request or is scheduled by Valvology in excess of one hundred and twenty (120) days will be invoiced at the exchange rate effective at shipment time or at the prices agreed upon at time of order acceptance by Valvology.

3. Taxes

- 3.1 Any taxes, whether Goods and Services, excise, or other tax, and either present or future in nature that are applicable to the products sold by Valvology, shall be incurred by the customer or, if payable by Valvology, then added to the purchase price invoiced to the customer.

4. Clerical Errors

- 4.1 Valvology reserves the right to correct all stenographic or clerical errors or omissions in any documents whether quotations, invoices, etc.

5. Warranty

- 5.1 Any products sold by Valvology and manufactured by companies other than Valvology are not covered by this warranty.
- 5.2 The warranty for such products shall be subject only to the warranty relief, if any, provided by the suppliers and/or manufacturers of such products.
- 5.3 Any claim regarding this warranty must be in writing and received by Valvology before the last effective date of the warranty period.
- 5.4 Upon Valvology's receipt of a warranty claim, Valvology reserves the right to inspect the product(s) in question at either the filed location or at Valvology's facility.
- 5.5 If, after inspection of the product(s) in question, Valvology determines that the purchaser's claim is covered by this warranty, Valvology's sole liability and the purchaser's sole remedy under this warranty is limited to the refunding of the purchase price or repair or replacement thereof at Valvology's option.
- 5.6 Valvology will not be liable for any costs of repairs, labour, material or other expenses that are not specifically authorised in writing by Valvology and in no event shall Valvology be liable for any direct or consequential damages arising out of any defect or from any cause whatsoever.
- 5.7 If any Valvology supplied product is modified or altered at any location other than Valvology's nominated facilities without the express written authorisation of Valvology, then this warranty is null and void.

6. Liability

- 6.1 In addition, and not in limitation of any other term of these Terms and Conditions of Sale, Valvology shall not be liable for any claims for contingent, special or consequential damages, such as, but not limited to, those stated hereafter.
- 6.2 In no event shall Valvology be held liable for the loss of profits, for the loss of the use of process facilities, equipment, plant or product of the purchaser or end user whether partially or otherwise due to defects in

material, workmanship, or design of products offered by Valvology products.

7. Force Majeure

- 7.1 In no event shall Valvology be liable for any losses, costs, damages or other expenses resulting from failure or delay in delivery due to acts of God, orders bearing priority rating established pursuant to law, differences with workmen, local labour shortages, fire, flood or other casualty, government regulations or requirements, shortages or failure of raw materials, supplies, fuel, power, or transportation, breakdown of equipment, or any other causes beyond Valvology's control, whether similar or dissimilar to those enumerated, Valvology shall have such additional time as may be reasonably necessary to perform its obligations here under in the event of the occurrence of any of the events described above.
- 7.2 In no event shall Valvology be liable for any consequential damages or claims for labour resulting from failure or delay in delivery.

8. Claim Notices

- 8.1 Upon receipt of shipments from Valvology, the purchaser should inspect such shipment for shortages and incorrect materials. Such claims must be filed in writing and received by Valvology within ten (10) days from the time such shipment was received by Purchaser.
- 8.2 Any warranty claims for defective products must be made in writing within fourteen (14) days after the purchaser becomes aware of the facts on which such claim will be based.
- 8.3 Any claim, whether receiving or warranty in nature, must be received within the time period stated above or such claim will be forever waived.

9. Delivery

- 9.1 Delivery times are quoted and established by Valvology on the basis they are as accurate as possible given the conditions prevailing at the time of quotation.
- 9.2 All delivery times are confirmed or modified at the time of order acknowledgment.
- 9.3 Deliveries quoted are subject to prior sale, and the time of delivery begins upon order release from the customer.
- 9.4 In no instance does Valvology guarantee delivery times, nor will Valvology assume any liability for damages, losses, or expenses resulting from Valvology's failure to deliver products within the quoted delivery times.
- 9.5 Risk for loss or damage shall pass to the Customer upon delivery to the Customer.
- 9.6 Title shall pass to the Customer upon receipt of payment in cleared funds by Valvology of amounts due in respect of the Contract.
- 9.7 For the avoidance of doubt, any such transfer of title in the Equipment shall not imply transfer of ownership of any intellectual property therein.

10. Inspection

- 10.1 If orders are accepted by Valvology, which require Purchaser's inspection, all products on such order(s) must be inspected and accepted at the nominated Manufacturing plant.

11. Change Orders or Cancellations

- 11.1 Orders received and accepted by Valvology may not be changed or cancelled except on terms satisfactory to Valvology and which prevent Valvology from incurring any loss.
- 11.2 Changes or cancellations of products considered not-standard or special will not be accepted without full reimbursement of all related expenses incurred at date.
- 11.3 All cancellations and change orders must be made in writing to and approved by Valvology subject to appropriate charges to Purchaser.

12. Return Goods

- 12.1 No materials may be returned for credit without prior written approval from Valvology.



12.2 In issuing credits, Valvology will deduct shipping, restocking and reconditioning expenses from the Purchaser's credit.

13. Miscellaneous Charges

13.1 The minimum order billing per order is \$100.00.

13.2 Any extra expenses incurred by Valvology such as engineering, tagging, taxes, service calls, export crating or other expenses will be added to the invoice after notification to the purchaser of the extra costs.

13.3 Should Valvology be requested to hold shipments for a purchaser, such shipment will be held at the risk and cost of the purchaser, and Valvology shall have the right to bill the purchaser for insurance and storage costs.

13.4 Any orders on hold more than sixty (60) days will be treated as a cancelled order and returned goods.

14. Payment Terms

14.1 All invoices for domestic (which includes New Zealand) purchasers will be due net thirty (30) days from date of invoice unless otherwise stated by Valvology.

14.2 All invoices for international* purchasers will be confirmed, irrevocable Letters of Credit due on delivery to Australian freight forwarder, Australian port. All amounts past due of a purchaser will be charged at one and three-quarter percent (1.75%) per month service charge or the maximum annual rate allowable by law if less.

15. Insurance

15.1 The Customer shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the Contract and at law.

15.2 The Customer shall provide proof of the relevant insurance coverage, where requested.

16. Indemnities

16.1 All exclusions and indemnities given under this Clause shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.

16.2 Valvology shall be responsible for and shall save, indemnify, defend and hold harmless the Purchaser from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of Valvology whether owned, hired, leased or otherwise provided by Valvology arising from or relating to the performance of the Contract;
- (b) personal injury including death or disease to any person employed by Valvology arising from or relating to the performance of the Contract;
- (c) personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Valvology.
- (d) For the purposes of this Clause "third party" shall mean any party which is not a member of Valvology or the Customer Group.

16.3 Purchaser shall be responsible for and shall save, indemnify, defend and hold harmless Valvology from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of;

- (a) loss of or damage to property of the Purchaser whether owned, hired, leased or otherwise provided by the Customer Group arising from or relating to the performance of the Contract;
- (b) personal injury including death or disease to any person employed by the Purchaser arising from, relating to or in

connection with the performance or non-performance of the Contract; and

(c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group.

(d) For the purpose of this Clause "Third Party" shall mean any party which is not a member of Valvology or the Customer Group.

16.4 Notwithstanding any provision to the contrary elsewhere in the Contract and except to the extent of any agreed liquidated damages (including without limitation any predetermined fees) provided for in the Contract, Valvology shall save, indemnify, defend and hold harmless the Purchaser from Valvology's own Consequential Loss and the Purchaser shall save, defend, indemnify Valvology from the Purchaser's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Contract.

17. Limitation of Liability

17.1 For the purpose of this Clause the expression "Consequential Loss" shall mean (in each case whether or not foreseeable at the date of the purchase order; (a) any and all consequential, indirect, special, incidental, punitive and/or special loss and/or damage; and (b) loss and/or deferral or production, loss of product, loss of goodwill, loss of use, loss of revenue, profit or anticipated profit, cost of capital, loss of business opportunity, loss of contracts, in each case whether direct or indirect to the extent that such loss, deferral and/or cost are not included in this Clause; and (c) claims for service interruption or failure to supply, costs and expenses incurred in connection with labour overhead, transportation or substitute facilities or supply sources, labour performed in connection with the removal and replacement of Equipment or any other loss or damage incurred as a result of or otherwise in connection with interruption of services in each case to the extent that such claim is not included in this Clause.

17.2 Notwithstanding any provision to the contrary elsewhere, in no case will Valvology be liable for Consequential Loss and the Customer shall be liable for and shall save, indemnify, defend and hold harmless Valvology from and against any and all Consequential Loss even if caused by Valvology's sole, joint, comparative contributory or concurrent negligence, fault, strict liability or product liability, and regardless of the form or action, whether in contract, tort (including negligence), breach of warranty, indemnity, statute, strict liability or otherwise.

17.3 The total liability of Valvology on any claim whether in contract, tort (including negligence whether sole or concurrent) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Equipment or the furnishing of any Services under the Contract, or the performance or non-performance of the Contract shall not exceed the price actually received by Valvology from the Customer for the specific Services or for the specific Equipment under the Contract.

17.4 Customer understands and agrees that the forgoing liability limitations are essential elements of the Contract and that in the absence of such limitations the material and economic terms of the Contract would be substantially different.

18. Business Ethics and Anti-bribery/Anti-corruption

18.1 Neither Customer nor Valvology shall make any payment or take any action that could be construed to be the payment of money or other thing of value to any person for the purpose of influencing any act or inducing any person to assist in obtaining or retaining business in any country in a manner which is illegal or which would subject Valvology to civil or criminal penalties, or which is inconsistent with Supplier Code of Business Conduct.



- 18.2 The Customer agrees that it shall take no action or use or spend any funds, regardless of the source, in violation of all applicable laws and regulations including without limitation applicable laws, regulations or orders relating to antibribery, influence peddling or anti-corruption.
- 18.3 The Customer shall immediately notify Valvology if it becomes aware of, or has reasonable grounds to suspect, any violation or potential violation of this Clause.
19. Waiver
- 19.1 Either party's failure to enforce any provision of this Contract shall not be construed to be a waiver of such provision or the right of such party to enforce each and every such provision.
20. Termination
- 20.1 Valvology may terminate the Contract:
- (e) immediately upon notice to the Customer if the Customer is delinquent for more than 30 days in the payment of any sum due to Valvology;
 - (f) immediately upon notice to the Customer if it is in breach of any obligation under the Contract and the Customer has failed to remedy such breach within thirty days of written notice to the Customer requiring the breach to be remedied;
 - (g) immediately upon notice to the Customer if there is any change in the ownership, management or control of the Customer;
 - (h) immediately upon notice to the Customer if the Customer ceases or threatens to cease to carry on business; or
 - (i) substantially the whole of its business or Valvology has reasonable cause to believe that the Customer is unable to pay its debts when due;
 - (j) without notice to the Customer if the Customer becomes insolvent or bankrupt, enters into liquidation, or a receiver, administrator, administrative receiver, manager, trustee or similar officer is appointed in relation to it or over any of its assets or any action is taken or threatened by or against it analogous to the foregoing in any jurisdiction; or
 - (k) immediately upon notice to the Customer if a case of Force Majeure continues for 60 days or more.
- 20.2 Where Valvology terminates any Contract under this Clause, the Customer shall within seven (7) days pay to Valvology:
- (a) all amounts invoiced by Valvology under the Contract which remain unpaid at the date of termination;
 - (b) a fair and reasonable price in respect of work completed or in progress but not invoiced at the date of termination;
 - (c) all costs (including without limitation a sum in respect of overheads) incurred by Valvology connected with termination;
 - (d) all suppliers' and sub-contractors' termination charges. Termination of any Contract by Valvology shall be without liability or obligation of any kind on the part of Valvology.
- 20.3 Such termination shall not affect the rights of Valvology accrued prior to the date of termination.
- 20.4 The Customer may not cancel or reschedule the delivery date of any Equipment and/or Services to be provided under the Contract without the prior written consent of Valvology.
- 20.5 In the event that Valvology provides such consent, any such cancellation or rescheduling of Equipment and/or Services by Customer will result in a charge to Customer to be determined by Valvology.
- 20.6 Purchase orders once placed and accepted by Valvology may be cancelled only with Valvology's consent.
- 20.7 Any cancellation at Customer's request may result in a cancellation charge equal to
- (a) 20% of standard Equipment/Services; and
 - (b) 100% of the full Contract price for non-standard or special Equipment/Services.
- 20.8 Cancellation charges for accessories and components sourced from third parties will be charged at full price.
- 20.9 Valvology shall, at its sole discretion, adjust the price and delivery dates or make such other amendments as may be required as a result of any change order agreed to be issued by the Customer and Valvology.
- 20.10 No amendment to the Contract shall be valid unless agreed in writing by Valvology (at its sole discretion).
21. Applicable Laws
- 21.1 Valvology agrees that in the performance of this Contract it shall comply with all applicable laws, statutes, rules and regulations or orders.
22. Governing Law
- 22.1 The laws of the State of Western Australia shall govern the validity, construction, interpretation and effect of these Terms and Conditions for Services and/or Equipment provided in Australia and New Zealand.
23. Dispute Resolution
- 23.1 Any dispute between the parties in connection with or arising out of the Contract shall be conducted in the English language and be resolved by means of the following procedure:
- (a) the dispute shall initially be referred, by means of a formal notice, to the representative of each party who shall discuss the matter under dispute and make all reasonable efforts to reach an agreement;
 - (b) if no agreement is reached under Clause 23.1(a) above, within thirty (30) days of the date of the formal notice, the dispute shall be referred to an appropriate senior executive of each of the parties who shall meet to discuss the matter in dispute and make all reasonable efforts to reach an agreement;
 - (c) if no agreement is reached under Clause 23.1(b) above within ninety (90) days of the date the dispute was referred to the senior executives of each party, the dispute shall be settled by binding arbitration conducted in accordance with the Arbitration rules of the Australian Federal Courts.
- 23.2 Notwithstanding the existence of a dispute at any stage contemplated by this clause, the Customer and Valvology must continue to perform the Contract.