



Terms and Conditions of Sale

All products, quotations, orders, and contracts are subject to approval by Seller. Upon approval, this order constitutes an unqualified agreement to the following terms and conditions:

These terms and conditions of sale (these “Terms and Conditions”) are the only terms which govern the sale of the valves, diaphragms, and/or components (collectively, the “Goods”) by Gemu Valves, Inc, (the “Seller”) to the buyer identified in the purchase order (the “Buyer”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms and Conditions.

Seller’s accompanying purchase order and these Terms and Conditions (collectively, the “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms and Conditions prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms and Conditions.

1. PRICE AND PAYMENT TERMS

- 1.1. All prices set forth herein are EXW Seller shipping point and are payable net 30 days after invoice date. Shipments will be invoiced as of date of shipment, and all accounts not paid within thirty (30) days of invoice date will bear interest at the rate of two percent (2)% per month from invoice date, or the highest rate allowed by law, whichever is lower. In the event of failure of timely payment by Buyer, Buyer shall pay to Seller all costs of collection including the entire amount due hereunder as attorney’s fees if collected by or through an attorney-at-law.
- 1.2. Prices on the Goods are exclusive of all city, state, and federal excise taxes, including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes. Wherever applicable, any tax or taxes will be added to the invoice as a separate charge to be paid by the Buyer. Please note that any tax calculations, if applicable, are made at the time of order in accordance with the provided delivery address. Modifications in delivery address, order value, or changes in applicable tax laws prior to sale may change this calculation. It is your responsibility to file and remit the applicable use tax to the appropriate tax agency.
- 1.3. In addition to the purchase price for the Goods Buyer shall pay and be liable for all of Buyer’s expenses incurred by Seller for insurance, freight, cartage, warehousing, and all other charges in connection with loading and shipping the Goods to the Buyer.
- 1.4. Buyer shall pay all amounts payable to Seller hereunder when due, time being of the absolute essence.
- 1.5. Payment for the Goods shall, if Seller so requires, be made in full prior to delivery and Seller shall be entitled to withhold delivery until such payment has been made and any check or other negotiable instrument given in payment has cleared. Seller shall have the additional right at any time to limit or cancel any credit extended or to be extended hereunder. Upon failure by Buyer to make payment to Seller within thirty (30) days after notice from Seller limiting or canceling any credit extended or requiring Buyer to make payment before delivery, Seller shall have the option to cancel this and other contracts between Seller and Buyer. In such an event, in addition to its other remedies, Seller may resell all or any part of the Goods undelivered under contract within 28 days’ notice at public or private sale and Buyer shall be liable to Seller for the difference between the resale price and the price at which Buyer agreed to buy the Goods together with incidental damages.

2. TITLE TO AND RESERVATION OF SECURITY INTEREST IN THE GOODS

- 2.1. Until Buyer has completed payment for the Goods, title and ownership to said Goods shall remain with Seller



and its assigns, and Seller hereby reserves and Buyer hereby grants to Seller a purchase money security interest in the Goods. The Goods shall at all times be located at the place to which delivery is to be made as indicated on the reverse hereof unless

written approval is obtained from Seller for removal to some other place. Said Goods shall not become a part of the realty or any other fixture.

2.2. If the Buyer defaults in the payment of any part of the purchase price as herein provided at any maturity date as to any payment or fails to comply with or defaults in any of the material provisions of this Agreement, or in the event that a petition for a receiver or in reorganization or in bankruptcy is filed by or against Buyer, or whenever Seller or its assigns shall deem themselves insecure, then in any such event the full amount of the purchase price remaining unpaid shall become immediately due and payable at the option of Seller or its assigns, and the Buyer agrees to return said Goods on demand, if not yet fully paid for, and Seller or its assigns may without notice of demand and without any legal process enter into any premises where the Goods are located to take immediate possession thereof and to make such disposition deemed by Seller or its assigns as desirable. All payments made shall be retained as liquidated damages for the use of the Goods and not as a penalty. The Goods may be sold with 28 days' notice at public or private sale, with the right in Seller or its assigns to bid in such sale, and the proceeds thereof less expenses shall be credited to the amount unpaid. The Buyer agrees to pay the difference between the fair market value of the Goods sold and monies derived from private or public sale and all costs incurred, legal or otherwise, as a result of the breach of this Agreement.

2.3. Until payment for the Goods has been completed, Buyer may not sell, transfer, convey, pledge, hypothecate or otherwise use the Goods as security for any borrowing or for any other purposes. A violation of this provision shall cause an immediate default of Buyer's obligations under this agreement.

3. COMPLIANCE WITH LAWS; EXPORT CONTROLS

Unless otherwise agreed to by the parties in writing, all sales by Seller herein are for domestic consumption, use or re-sale only. Buyer shall comply with all applicable laws, rules and regulations arising in connection with this Agreement and Buyer's purchase and use of the Goods. Without limiting the foregoing, this Agreement is made subject to any restrictions under the export control laws, rules and regulations concerning the export of products, materials or technical information either from the United States of America or to a foreign national within the United States of America (e.g., a "deemed export" applying to transfers solely within the United States of America) which may be imposed upon or related to Buyer from time to time by the government of the United States of America. In connection therewith, Buyer agrees that it will not export, directly or indirectly, the Goods provided or arising under this Agreement to any country or foreign national for which the United States government or any agency thereof at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from Seller and the Department of Commerce or other agency of the United States government when required by an applicable statute or regulation.

4. INSURANCE

Buyer shall specifically insure the Goods against "all risks," subject to normal exclusions, from the time that the risk of loss passes to Buyer, during the loading of Goods to carrier, transport and unloading, and continuously thereafter until all amounts owed by Buyer to Seller are paid in full to Seller. Evidence of such insurance satisfactory to Seller shall be submitted by Buyer prior to shipment or Seller may procure such insurance at Buyer's expense.

5. EXCLUSIVE WARRANTIES AND EXPRESS WAIVER OF ANY TORT OR OTHER CONTRACTUAL REMEDY

5.1. Seller warrants the Goods to be free from defects in workmanship and/or materials for a period of one (1) year from the date of shipment to Buyer. This warranty does not extend to parts or components not manufactured or processed by Seller, although Seller will to the extent possible pass to Buyer the benefit of any guarantee or warranty given to Seller in respect of such parts or components. No Goods may be returned without the express prior written approval of Seller after a determination by Seller that such Goods are defective because of poor workmanship or defective materials. Seller shall credit or make adjustment to the purchase price of the Goods or replace or repair, at its option, any defective Goods or portions thereof. In the event that Seller determines in its sole discretion that the defect is attributable to any cause other than poor workmanship or defective materials (including, but not limited to, misuse or abusive operation of



the Goods), then Seller shall have no obligation whatsoever with respect to repair or replacement of the defective Goods and the warranty described herein shall be void and of no force and effect.

5.2. EXCEPT AS NOTED IN PARAGRAPH 5.1, THE PARTIES AGREE THAT THERE IS NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTIES BY SELLER, EITHER EXPRESSED OR IMPLIED, OR ANY AFFIRMATION OF FACT OR REPRESENTATION WHICH EXTENDS BEYOND THE DESCRIPTION OF THE FACE HEREOF.

5.3. THE MAXIMUM DAMAGES RECOVERABLE UNDER ANY LEGAL THEORY, WHATSOEVER, IN THE EVENT OF BREACH OF ANY WARRANTY BY SELLER, EXPRESSED OR IMPLIED, OR OF THIS AGREEMENT OR UNDER ANY CIRCUMSTANCES SHALL BE LIMITED TO THE PURCHASE PRICE OF THE GOODS. BUYER AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO IT UNDER ANY CIRCUMSTANCES. ANY INDEMNIFICATION OBLIGATIONS OF SELLER SHALL BE LIMITED TO THE PURCHASE PRICE OF THE GOODS.

5.4. WARNING - Seller products are designed and manufactured with experienced and quality workmanship, using quality materials; Seller products have been designed to meet all applicable standards. These products are available with components of various materials and they should be used only in services recommended in the Seller catalog or by an engineer of Seller. MISAPPLICATION OF THE PRODUCT(S) MAY RESULT IN INJURIES OR PROPERTY DAMAGE. A selection of valve components of the proper material consistent with the particular performance requirement is important for proper application. Examples of a misapplication or misuse of a diaphragm valve of Seller includes using it in an application in which the pressure/ temperature rating exceeds or fails to maintain the valves as recommended.

6. LIMITATION ON DAMAGES RECOVERABLE FOR WARRANTY, TORT, OR CONTRACT ACTIONS OF ANY NATURE

There is a limitation on damages recoverable regardless if the action against Seller sounds in warranty, contract, or tort pursuant to Paragraph 5 above. Seller shall not be liable for delay in shipment for any cause beyond its reasonable control, nor shall such delay entitle Buyer to cancel any order or refuse to accept delivery. Seller shall not be liable for failure or delay in shipment or other performance hereunder if such failure is due in whole or in part to strikes, fires, accidents, pandemics, wars, rebellions, civil commotion or public strike, acts of any government, whether legal or otherwise, acts of public or private enemies, force majeure, inability to secure or obtain or delay in securing or obtaining transportation, machinery, materials, or sufficient qualified labor, or any other causes beyond Seller's reasonable control.

7. RISK OF LOSS

Unless otherwise specifically agreed in writing, risk of loss of the Goods shall pass from Seller to Buyer when the Goods or any portion thereof, properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport, are placed in the possession of the carrier, EXW (Incoterms 2020) Seller shipping point for shipment to Buyer. Seller may choose any reasonable carrier for delivery. Tender of delivery shall be deemed made at Seller shipping point even when freight is prepaid to point of destination or Seller is required to deliver the Goods to a particular destination.

8. MODIFICATIONS

This Agreement constitutes the entire agreement of the parties with respect to the terms and conditions of sale of the Goods specified herein. This Agreement supersedes any other agreement, representation or statement made by Seller prior to the date these terms and conditions are issued to buyer. No modification of this Agreement shall be binding upon the parties unless in writing and signed by the party to be bound. The requirement that any modification will be in writing cannot be waived unless the waiver of this requirement is in writing. Any terms and provisions contained in any document of the Buyer which are inconsistent with the terms and provisions hereof shall not be binding on Seller and shall not be considered applicable to the sale or shipment of the Goods. No agent, employee or representative of Seller other than its officers has any



authority to bind Seller to any affirmation, representation or warranty concerning the Goods sold under this Agreement and unless an affirmation, representation or warranty made by an agent, employee, or representative is specifically included within this Agreement, it has not formed a part of the basis of this bargain and shall not in any way be enforceable or actionable.

9. WAIVER

Waiver by Seller of a breach by Buyer of any provision of this Agreement shall not be deemed a waiver of future compliance with the provision of the Agreement breached.

10. ASSIGNMENT

No right or interest in this Agreement shall be assigned by Buyer without the written consent of Seller, and no delegation of any obligation by Buyer shall be made without the written permission of Seller. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

11. CONTROLLING LAW

The validity and interpretation of this Agreement shall be governed by the laws of the State of Georgia.

12. EXCLUSIVE JURISDICTION

In the event of any legal action, Buyer, to the extent it may lawfully do so, hereby submits to the exclusive jurisdiction of any state or federal court located in Fulton County, Georgia. Buyer further submits to the exclusive jurisdiction of all Georgia courts from which an appeal may be taken from the aforesaid courts. The Buyer expressly waives any objections based on personal jurisdiction or venue in any of these Georgia courts. The Buyer further agrees that it may be validly served with any legal process in connection with the foregoing by the mailing of a copy thereof by registered or certified mail at its address shown on the reverse hereof.

13. SEVERABILITY CLAUSE

If any paragraph or part thereof is determined to be invalid, all remaining paragraphs of the agreement and all terms not invalidated shall be considered severable from the invalidated provision.

14. ARBITRATION

The parties hereto hereby agree that any dispute concerning, relating or referring to this Agreement shall be resolved exclusively by binding arbitration according to the then existing rules of the American Arbitration Association in an arbitration conducted in Atlanta, Georgia, U.S.A. Such proceedings will be governed by substantive Georgia law. The dispute will be resolved by a single arbitrator who must be a lawyer admitted to practice in the courts of at least one state in the United States and have a minimum of fifteen years of experience in civil litigation. The arbitrator so described will be selected by the American Arbitration Association. Each party to the dispute shall have the right on a single occasion to veto the designation of an arbitrator so selected. There will be judicial review of the arbitrator's decision if either side can show plain error in the application of law or be able to show an abuse of discretion with respect to factual findings. The parties hereto waive the right to rely on any state law or statute which creates an exception to enforcement of the requirement that disputes be resolved pursuant to arbitration in the manner set forth herein.