

## TERMS AND CONDITIONS

**“Company” shall mean PRECISION VALVE CORPORATION and its direct and indirect subsidiaries.**

**1. Acceptance; Agreement.** These terms and conditions are an integral part of Company’s offer and form the basis of any agreement (the “Agreement”) resulting from Company’s purchase order (the “PO”) for either the purchase of commercial goods, equipment and/or services described in the PO (each, the “Work”). **COMPANY’S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The PO is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 15 days from the date of the PO. If Customer accepts the PO without the addition of any other terms and conditions of sale or any other modification, Customer’s order shall be deemed acceptance of the PO subject to these Company’s Terms and Conditions. If Customer’s order is expressly conditioned upon Company’s acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company’s terms and conditions attached or referenced serves as Company’s notice of objection to Customer’s terms and as Company’s counter-offer to provide Work in accordance with the PO and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 business days of receipt of Company’s counter-offer, such counter-offer will be deemed accepted. Customer’s acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company’s terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer’s obligation to pay for Work rendered by Company to the date of cancellation.

**2. Pricing and Taxes.** Unless otherwise noted, the price in the PO includes standard ground transportation and, if required by law, all sales, VAT, consumer, use and similar taxes legally enacted as of the date hereof. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer’s tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor do not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than three (3) months from order receipt. If such release is not received within six (6) months after date of order receipt, the prices are subject to renegotiation, or at Company’s option, the order will be cancelled upon written notice to Customer. Any delay in shipment caused by Customer’s actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

**3. Exclusions from Work.** Company’s obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

**4. Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions or required specifications could endanger property or put at risk the safety of persons.

**5. Payment.** Customer shall pay Company’s invoices within net thirty (30) days of receipt of an invoice that complies with the requirements set forth in this Agreement. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for any equipment portion of the Work following delivery of equipment on site. Company reserves the right to add to any account outstanding for more than forty-five (45) days a service charge equal to 2% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys’ fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in any and all equipment which may be provided from Company in connection with the Work to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement.

**6. Force Majeure.** Company’s duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company’s election (i) remain in effect but Company’s obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the reasonable control of Company that Company could not have prevented or overcome through the exercise of reasonable diligence. Without limiting the foregoing, “Event of Force Majeure” includes any unpredictable and unforeseen acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**7. Customer’s Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead).

**8. INDEMNITY; LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW, COMPANY AND CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS EACH OTHER FROM ANY AND ALL CLAIMS, ACTIONS, COSTS, EXPENSES, DAMAGES AND LIABILITIES, INCLUDING REASONABLE ATTORNEYS’ FEES, RESULTING**

FROM DEATH OR BODILY INJURY OR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, TO THE EXTENT CAUSED BY THE NEGLIGENCE OR MISCONDUCT OF THEIR RESPECTIVE EMPLOYEES OR OTHER AUTHORIZED AGENTS IN CONNECTION WITH THEIR ACTIVITIES WITHIN THE SCOPE OF THIS AGREEMENT. NEITHER PARTY SHALL INDEMNIFY THE OTHER AGAINST CLAIMS, DAMAGES, EXPENSES OR LIABILITIES TO THE EXTENT ATTRIBUTABLE TO THE ACTS OR OMISSIONS OF THE OTHER PARTY. IF THE PARTIES ARE BOTH AT FAULT, THE OBLIGATION TO INDEMNIFY SHALL BE PROPORTIONAL TO THEIR RELATIVE FAULT. THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT, NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION HEREOF, WITH RESPECT TO ANY CLAIMS BASED ON FACTS OR CONDITIONS THAT OCCURRED PRIOR TO EXPIRATION OR TERMINATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

**9. Patent Indemnity.** Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

**10. Limited Warranty.** Company warrants for a period of twelve (12) months from the date of delivery ("Warranty Period") Products against failure due to defects in material and manufacture (the "Limited Warranty"). **Product manufactured by Company that includes specifications solely dictated by the Customer will not be warranted by Company unless Company performs the product start-up.** If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacements. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING**

**FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED REGARDING PREVENTION BY THE WORK, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE WORK OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

**11. Insurance.** Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$1,000,000 per occurrence
Automobile Liability	\$1,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested in writing to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

**12. Commencement of Statutory Limitation Period.** Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

**13. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.