

Flowserve Flow Control GmbH
General Terms and Conditions
for Deliveries of Goods and Services

As of 1 Jan-13

1. General

- 1.1 The following terms and conditions apply to all, including future, deliveries and services, quotations and order confirmations by Flowserve Flow Control GmbH (hereinafter: the "Supplier").
- 1.2 Verbal collateral agreements, any guarantees, supplements or amendments to the contract require the Supplier's confirmation in writing (Mail, Fax, eMail) to be legally effective. Elimination of the requirement for the written form pursuant to this clause must be in writing.
- 1.3 Clients' terms and conditions are only effective if such terms and conditions have been explicitly accepted, in writing, by the Supplier; they shall not become terms of the contract through acceptance of an order. Elimination of the requirement for the written form pursuant to this clause must be in writing.
- 1.4 All quotations shall be subject to change. Planning costs incurred and engineering services performed during preparation of a quotation may be charged separately by the Supplier. Unless otherwise agreed, the Supplier's order confirmation shall be authoritative with regard to the scope of the deliveries or services (hereinafter: "Deliveries"). Unless otherwise expressly agreed, the execution of the order shall be made in accordance with the sales documents (descriptions, printed matters, brochures and specification sheets), which the Supplier attached to its quotation or to the order confirmation, or to which reference was made by the Supplier in the quotation or in the order confirmation.
- 1.5 The Supplier shall retain unlimited ownership rights, copyrights and exploitation rights to cost estimates, drawings, models, plans and other documents and information in physical and non-physical form, in particular in electronic form (hereinafter: "Documents"). Documents may only be made available to third parties with the Supplier's prior consent. If the order is not placed with the Supplier, the Documents shall be returned upon request without delay. Any information in non-physical form – in particular in electronic form – shall be deleted, and the deletion shall be confirmed in writing.
- 1.6 If necessary, the Buyer shall inform the Supplier of the intended use of the delivery item as well as of the appropriate materials for the measurement medium, no later than at the time the order is placed. This applies especially if the goods to be delivered will be used in connection with toxic, combustible, corrosive and explosive media, as well as with other hazardous materials, or under special temperature, pressure, or environmental conditions, or if other specific operating conditions are present.
- 1.7 Calibration certificates, factory certifications or other documentation must be requested explicitly when placing the order and shall be charged separately.

2. Prices and Payment Terms

- 2.1 Unless otherwise agreed, our prices are quoted ex works, excluding freight, packing, insurance and other additional charges, plus the current legally applicable VAT.
- 2.2 For services outside the Supplier's plant, unless otherwise agreed, the respective rates for billings and costs, surcharges, allowances, expenses, tool, travel, and risk costs, shall apply according to the respective current price list.
- 2.3 Payment shall be made via money transfer – without any deductions, ex Supplier's paying agent. Credits paid by cheques shall always be subject to collection.
- 2.4 The payment is considered to be paid in time, if the money has been received on Supplier's bank account within the time period specified in the order acknowledgement.
- 2.5 Should the Buyer be in arrears with a payment for more than ten days, even if it concerns payment obligations resulting from other legal transactions, or if it has suspended payments, or if there is a substantial deterioration in its financial circumstances, all outstanding claims by the Supplier from any and all existing contracts with the Buyer shall become due and payable immediately. The Buyer shall no longer be entitled to make use of discounts granted to it. Supplier shall be entitled to demand advance payment or other security deposits acceptable to him for goods not yet delivered.
- 2.6 The retention of payments due to denied complaints or disagreements of any kind, and/or the offset against contested counterclaims or legally valid and approved counterclaims shall be excluded.

3. Delivery Periods and Default

- 3.1 Unless agreed otherwise, the agreed delivery period shall begin with the receipt of the Supplier's order confirmation, however, not before receipt of all documents and information necessary for the execution of the order, and after the Buyer's compliance with all other obligations, including the payment of any advance payments. The delivery term is subject to correct and timely self-supply as well as to the occurrence of unforeseen events, such as force majeure, strikes, lockouts, as well as other circumstances for which the Supplier shall not be held responsible. In such cases, of which the Buyer shall be notified, the delivery period shall be extended by an appropriate period.
- 3.2 The delivery period shall be deemed to be complied with, if the delivery item has left the Supplier's plant, or notification of readiness for dispatch has been made by expiration of such period. If the dispatch and/or acceptance of the delivery item is delayed for reasons attributable to the Buyer, the Buyer shall be charged for the costs incurred by the delay, commencing one month after notification of readiness for dispatch and/or readiness to accept the goods respectively.
- 3.3 Buyer may withdraw from the contract, without having to specify a date, prior to the passing of legal risk, if full performance becomes ultimately impossible for the Supplier. The Buyer may also withdraw from the contract if, in the

case of an order, it becomes impossible to carry out part of the delivery and the Buyer has a legitimate interest in refusing partial delivery. If this is not the case, the Buyer shall pay the contractual price attributable to the partial delivery. The same shall apply in case of incapacity on the part of the Supplier. Otherwise section 7.2 shall apply.

- 3.4 If impossibility or incapacity occurs during the delay in acceptance, or if the Buyer is solely or largely responsible for these circumstances, the Buyer shall remain obliged to pay valuable consideration.
- 3.5 Should the Supplier default, and if the Buyer incurs damages as a result of such default, the Buyer shall be entitled to demand lump sum compensation for delayed performance. Such consideration shall be 0.5% for each full week of delay; but, in total, shall not exceed 5% of the value of that part of the total delivery which, as a result of the delay, cannot be fulfilled in due time or in accordance with the contract.
- 3.6 The payment of the Buyer is delayed, if the invoiced amount has not been paid within 30 days after due-date and reception of invoice.
- 3.7 Should – under consideration of significant exceptional cases - the Buyer set a reasonable deadline for the Supplier to perform after the due date, and if this deadline is not met, the Buyer shall be entitled to withdraw from the contract, as provided in the statutory regulations.
- 3.8 Any further claims based on a delay in delivery shall be determined pursuant to section 7.2 of these terms and conditions exclusively.

4. Transfer of Risk and Shipment

- 4.1 Risk shall pass onto the Buyer as soon as notification of readiness for dispatch or readiness for acceptance of the delivery item, respectively, is made in writing, but no later than when the delivery item leaves the Supplier's works. Should, at the Buyer's request, the delivery item remain with the Supplier after such time, the Supplier, if requested by the Buyer, shall obtain appropriate insurance coverage, the costs incurred thereby shall be charged to the Buyer. If the shipment is delayed, at the Buyer's request, by more than one month after notice was given of the readiness for dispatch, the Buyer may be charged storage costs, for each full or partial month thereafter, in the amount of 0.5% of the price of the delivery items, not to exceed a total of 5% of the price. The contractual parties are at liberty to furnish proof of higher or lower storage costs.
- 4.2 Shipment shall be made at the Buyer's cost and risk. The choice of routing and the mode of transport shall be left to the Supplier; such choice shall be made with the due diligence of a prudent businessman, whereby it and its subcontractors shall be liable for insufficient care only in the case of intentional or gross negligence.
- 4.3 At the Buyer's request, the Supplier shall obtain transport insurance; the costs incurred thereby shall be borne by the Buyer.
- 4.4 Supplier shall be notified of transport damages within ten days after taking delivery by providing documentary evidence thereof.
- 4.5 The packing is charged separately.
- 4.6 In case Buyer is issuing/stipulating any penalties or liquidated damages – not being the sole obligation for Supplier and Buyer's sole remedy for Supplier's late delivery - in his order or otherwise, Seller is expressly objecting to any penalty or liquidated damages – irrespective of type or reasons.

5. Retention of Title

- 5.1 All goods shall remain the Supplier's property (reserved goods) until such time as all claims, regardless of their legal basis, have been satisfied, including claims arising in the future or conditional claims, and claims under contracts concluded simultaneously or later. The same shall apply should payments be made on specially designated claims.
- 5.2 Treatment or processing of the delivery items shall be made with respect to the Supplier as a manufacturer within the meaning of § 950 BGB [Federal Law Gazette], without its incurring any obligations. The processed delivery items shall be deemed to be reserved goods within the meaning of section 5.1. In case of the Buyer's processing, combining, or mingling of the delivery items with other goods, the Supplier shall be entitled to co-ownership in the new object(s) in proportion of the invoice value of the processed delivery items to the invoice value of the other goods so used. If the Supplier's ownership expires due to mingling or combining, the Buyer then transfers ownership rights to the new merchandise or object, accruing to the Buyer, to the Supplier at that time, to the extent of the invoice value of the reserved goods and shall hold such goods in custody for the Supplier free of charge. The co-ownership rights resulting herefrom shall be deemed to be reserved goods within the meaning of section 5.1.
- 5.3 The Buyer may only further sell the delivered goods within the framework of usual business dealings and only provided that it is not in default, provided that the claims from the resale are transferred to the Supplier pursuant to sections 5.4 to 5.6. The Buyer shall not be entitled to other dispositions with regard to the reserved goods.
- 5.4 The Buyer's claims from the resale of the reserved goods are now transferred to the Supplier. They serve as security to the same extent as do the reserved goods themselves. Should the reserved goods be sold by the Buyer in combination with other goods not provided by the Supplier, the assignment of claims from the resale shall occur only in the amount of the resale value of the delivery items sold. With respect to sales of delivery items in which the Supplier has co-ownership shares pursuant to section 5.2, the assignment of claims shall occur in the amount of these co-ownership shares.
- 5.5 If the Buyer receives claims from the resale of reserved goods in an existing current account relationship with a customer, the current account claims shall be assigned in full to the Supplier. After settlement has been made, the balance recognized following balancing is deemed to have been assigned, which made up the original current account claim.
- 5.6 The Buyer is entitled to collect claims from the resale until the Supplier revokes such entitlement, which may be made at any time. The Buyer shall be entitled to assign the claims – including the sale of claims to factoring banks - only with the Supplier's prior written approval. At the Supplier's request, the Buyer shall immediately inform its purchasers of such

assignment – insofar as the Supplier does not do so itself – and shall provide the Supplier with the information and documents necessary for collection.

- 5.7 In the event of payment by cheque, the ownership of the cheque is transferred to the Supplier as soon as the Buyer has acquired it. If payment is effected by a bill of exchange, the Buyer hereby assigns its rights arising therefrom to the Supplier in advance. The transfer of these documents shall be replaced by the Buyer's safekeeping them for the Supplier, or, if it does not obtain the direct possession of the documents, by assigning its claim for possession against third parties to the Supplier, in advance. The Buyer shall forward the documents, including its endorsement, to the Supplier without delay.
- 5.8 The right of the Buyer to possess the reserved goods shall expire should it not fulfil its obligations under this contract or other contracts with the Supplier. Should the Buyer be in breach of contract, and in particular, in the event of payment default, the Supplier shall be entitled to take back the goods after a notification and the Buyer shall be obligated to hand over the goods.
- 5.9 The Buyer shall immediately inform the Supplier of an attachment or any other impairment undertaken by third parties and provide it with the information and documents necessary for the assertion of the rights. A petition to initiate bankruptcy proceedings with respect to the Buyer's assets shall entitle the Supplier to withdraw from the contract and to demand the immediate return of the delivery item.
- 5.10 If the value of the existing securities exceeds the total secured claims by more than 20%, then, to such an extent, the Supplier shall, at the request of the Buyer, release the securities at the Supplier's option.
- 5.11 The Buyer is obligated to insure the reserved goods against fire, water and theft.
- 5.12 To the extent there are special or formal requirements in the Buyer's country for the transfer of ownership of the delivered items or of securities, the Buyer shall bear the cost of their fulfilment.

6. Warranty and Liability

With respect to defects of quality and defects of title to the delivered item, and without prejudice to section 7.2 of these terms and conditions, and also to the exclusion of further claims, the Supplier warrants the following:

Defects of Quality

- 6.1 All parts, which prove to be defective as a result of a given circumstance existing before the transfer of risk, shall, at the option of the Supplier, be subsequently remedied or replaced by non-defective items free of charge. The Supplier shall be notified immediately and in writing of any assessment of such defects. Replaced parts shall become Supplier's property.
- 6.2 Having notified the Supplier, the Buyer shall grant the Supplier sufficient time and opportunity to carry out all subsequent remedies and replacement deliveries that appear essential to the Supplier; otherwise the Supplier shall be freed from liability for the consequences arising there from. Only in urgent cases where operational safety is at risk, or for the purpose of averting excessive damage, in which case the Supplier must be notified immediately, shall the Buyer have the right to remedy the defect itself or have the defect remedied by third parties, and to demand reimbursement from the Supplier for the necessary expenses.
- 6.3 To the extent the notice of defect proves to be justified, Supplier shall bear all costs for repair or placement (remedial costs) according to statutory regulations incurred provided this does not result in an unreasonable burden on the Supplier.
- 6.4 Under statutory regulations the Buyer has a right to withdraw from the contract if the Supplier, taking into account the legal exceptions, allows a reasonable additional period to remedy or replace a defect in quality to expire without result. In case of a negligible defect, the Buyer shall merely be entitled to the right to a reduction in the contractual price. Otherwise, the right to reduce the contractual price shall remain excluded.
- 6.5 Further claims shall be determined in accordance with section 7.2 of these terms and conditions.
- 6.6 In particular, no warranty will be assumed in the following cases:
Inappropriate or improper use, faulty assembly and/or commissioning by the Buyer or by third parties, normal wear and tear, faulty or negligent handling, irregular maintenance, unsuitable production equipment, defective building work, unsuitable building land, chemical, electronic or electrical influences - to the extent the Supplier is not responsible for such.
Should the Buyer or a third party subsequently make inappropriate improvements, the Supplier shall not be liable for the ensuing consequences. The same shall apply to alterations to the delivery item carried out without the Supplier's prior consent.

Defects of Title

- 6.7 If the use of the delivery item leads to an infringement of commercial property rights or domestic copyrights, the Supplier shall, in principle attempt, at its expense, provide the Buyer with the right to continue to use the delivery item or, to reasonably modify it in such a manner, as to remove the infringement on commercial property rights. Should this prove impossible on reasonable economical terms or within a reasonable period, the Buyer shall be entitled to withdraw from the contract. Under the stated preconditions, the Supplier shall also have a right to withdraw from the contract. Furthermore, the Supplier shall release the Buyer from undisputed or legally valid claims of the effected property right holders.
- 6.8 Subject to section 7.2, the Supplier's obligations specified under section 6.7 shall be conclusive in the case of the infringement of commercial property rights or copyrights. They shall only exist if:
 - The Buyer informs the Supplier of asserted industrial property rights or copyrights infringements without delay or,
 - The Buyer provides reasonable support to the Supplier in its defence of the asserted claims or makes it possible for the Supplier to carry out the modification measures in accordance with section 6.7,
 - The Supplier retains all defensive actions including out-of-court settlements,
 - The defect of title is not based on an instruction given by the Buyer, and

- The infringement of the right was not caused by the Buyer altering the delivery item arbitrarily or using it in a manner not in accordance with the contract.

- 6.9 All warranty claims according to section 6 will be time-barred within 12 months after initial start up of the plant, if the goods are implemented into the plant, but at maximum with 18 months after delivery of the goods. They shall also apply for defects to a structure or for delivery items, which, in compliance with their normal use, were used for a structure and have caused its defectiveness.

7. Liability

- 7.1 Should, due to the fault of the Supplier and as a result of failed or defective compliance with suggestions or advice given before or after the conclusion of the contract, or through the breach of other collateral contractual obligations – in particular instructions for the service and maintenance of the delivery item - the delivery item not be usable by the Buyer as specified in the contract, the provisions of section 6 and 7.2 shall apply accordingly, excluding further agreements by the Buyer.
- 7.2 For damage not arising from the delivery item itself, the Supplier – regardless of the legal basis – shall be liable only in cases of:
 - a. Intent,
 - b. Gross negligence by the Supplier's corporate bodies or senior executives,
 - c. Negligent impairment of life, body, health,
 - d. Defects, which it has fraudulently concealed or whose absence it has guaranteed,
 - e. Defects of the delivery item, provided liability is imposed under the Product Liability Act for injury to life or material defects to privately used items.In the case of culpable infringement of material contractual obligations, the Supplier shall also be liable in the case of gross negligence of non-executive employees and in the case of ordinary negligence, in latter case limited to damages reasonably expected in this type of contract.

8. Statutory Limitation

All remaining claims of the Buyer – regardless of the legal basis – shall be subject to a statutory limitation of 12 months. With respect to claims for damages under section 7.2, the respective statutory periods shall apply.

9. Software

- 9.1 To the extent software is included in the scope of a delivery, the Buyer shall be granted a non-exclusive right to use the delivered software, including its documentation. It is transferred for use on the delivery items designated for this. Any use of the software on more than one system is prohibited.
- 9.2 The Buyer may reproduce, revise, translate or convert the object code into the source code only to the extent legally authorised. The Buyer undertakes not to remove or alter manufacturing details – especially copyright notices - without the Supplier's explicit prior consent.
- 9.3 All other rights to the software and the documentation, including copies, shall remain vested in the Supplier or the software seller. The granting of sublicenses shall not be allowed.

10. Applicable Law, Place of Performance and Place of Jurisdiction

- 10.1 For all legal relationships between the Supplier and the Buyer, the law of the Federal Republic of Germany governing the legal relations between domestic parties shall apply exclusively.
- 10.2 The place of jurisdiction shall be Ettlingen [Germany]. The Supplier is, however, entitled to institute legal proceedings at the domicile of the Buyer or other legal place of jurisdiction. The same applies to legal proceedings with respect to bills of exchange and cheques. If the Buyer is a merchant, a legal person under public law or a separate estate under public law, the aforementioned jurisdiction shall also apply in the case of annulment, rescission, repudiation of contract and similar cases.
- 10.3 The place of performance for the execution of work outside the Supplier's works shall be the place agreed upon for the work to be executed. For other deliveries and services, as well as for the payments of the Buyer, also for claims arising from cheques and bills of exchange, the place of performance shall be Ettlingen.

11. Closing Provisions

- 11.1 Additional provisions apply to the permission to use standard software, services, assemblies, revision works, consultancy services, etc., as well as to the supply of assembly material.
- 11.2 The headings merely serve for greater clarity and have no material significance, in particular not that of a concluding provision.
- 11.3 If any individual provisions of these general terms and conditions should be or become ineffective, in whole or in part, the effectiveness of the remainder of these provisions shall not be affected thereby. The ineffective provisions shall be reinterpreted in such a manner that their objective may be fulfilled effectively.