

**TERMS AND CONDITIONS FOR SALE OF EQUIPMENT AND SERVICES BY AMERICAN VALVE SOLUTIONS, LLC**

THIS ORDER IS SUBJECT TO ALL OF THE TERMS AND CONDITIONS PRINTED HEREOF, WHICH INCLUDE PROVISIONS DISCLAIMING AND EXCLUDING LIABILITY FOR CONSEQUENTIAL DAMAGES, EACH OF WHICH BUYER AGREES TO BY ACCEPTANCE OF THIS ORDER. ONLY SUCH TERMS AND CONDITIONS SHALL CONSTITUTE THE AGREEMENT BETWEEN THE PARTIES.

1. CONTROL OF AGREEMENT: Buyer agrees that this Agreement, and the terms and conditions contained herein, shall control the sale of any Product, Equipment, and Services from American Valve Solutions, LLC ("AVS"). Any additional or different terms which may be contained in Buyer's purchase order or any other documents furnished by Buyer, including but not limited to, inquiries, specifications, purchase orders, acceptances, or acknowledgements, shall NOT control the sale of Equipment and Services unless accepted in writing by AVS's Management Committee.

2. PAYMENT: Invoices are issued as of the date of delivery covering deliveries from our stocks and as of the date of shipment covering direct or drop shipments. Buyer will pay without deduction or set-off the fees summarized on the invoice for the Equipment and Services purchased by Buyer. All invoices are net and due and payable 30 days from date of shipment in the lawful currency of the United States of America unless otherwise specifically agreed in writing. Past due amounts bear interest at the rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full.

If at any time a Buyer (i) fails to take delivery, (ii) exceeds its credit limit with AVS, (iii) is overdue with payment, (iv) suspends payments, (v) makes arrangements with its creditors or otherwise in AVS's opinion appears to be in financial difficulties, or (vi) ceases to trade, then AVS may without liability or prejudice to its other rights stop Equipment and Services in transit and defer or cancel further Equipment and Services under contract with Buyer or require advance payment or satisfactory security for payment of such services and no forbearance, course of dealings or prior payment shall affect the rights of AVS.

The acceptance of any order or specification and terms of payment on all sales and orders is subject to approval of AVS's Credit Department and AVS may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to AVS's Credit Department.

3. PRICES AND SALE. The prices stated herein are based on the prices and currency in effect as of the date hereof. Upon expiration of validity date of quotation, prices are subject to change without notice, in accordance with the prices in effect as of the date of shipment. The prices herein apply only to the Order Acknowledgement and Confirmation as stated herein and not to any further orders being placed.

If substitute or additional equipment, or repair parts are purchased by Buyer from AVS, the terms and conditions of the contract created upon acceptance of this offer to sell shall be applicable thereto, the same as if such substitute or additional equipment or repair parts had been originally purchased hereunder.

Any Tax now or herein after imposed by Federal, state, municipal, or other governmental agency thereof and /or any foreign taxing entity, based on or measured by the sale or use of the material, merchandise or services covered here or by the gross receipts from this transaction or any allocated portion thereof, or by this gross value of the material, merchandise or services covered hereby, or any similar tax in any State where AVS does business, all sales, use excise, and similar taxes which AVS may be required to pay or collect with respect to goods covered by this Order shall be the account and the responsibility of Buyer, except as otherwise provided by law.

AVS shall not be responsible for freight, transportation, insurance, shipping, demurrage or similar charges unless agreed upon in writing that is signed by both Buyer and AVS's authorized representative at time of quotation.

Any fees related to importing or exporting of components, parts and products shall be paid for by Buyer, including but not limited to consular fees for legalizing invoices, stamping bills of lading, or other documents required by the laws of any country or destination, and any other such fees associated therewith are not included in quotations or selling prices.

Buyer shall comply with laws applicable relating to use of the products, services, or goods provided. Buyer shall not redistribute, resell, or export the goods with violation of applicable laws. Buyer will defend, indemnify, and hold AVS harmless from and against all claims, demands, losses, liability, and costs as a result of Buyer's breach of law.

Repossessed Equipment with proceeds to be applied to unpaid balance and expenses incurred in sale, repossession, and collection. Buyer shall pay any remaining deficiency. AVS shall have the right at any time to examine and take possession of Equipment without restrictive action by Buyer.

Prohibited Sales effective through 7/23/2021: Due to continuing legal non-solicitations of sales obligations owed to a former employer, AVS cannot sell goods that will be resold to any of the following companies: MRC Global Inc. (including, but not limited to, MRC ULC; MRC Global (Canada) Ltd.; and MRC - Transmark); Sunbelt Supply Company (including, but not limited to, Sunbelt Supply Company Canada and Southwest Stainless, L.P.); Wolseley Industrial Group (including, but not limited to, Wolseley Industrial Canada, Inc.; Ferguson Enterprises, Inc.; Frischkorn Associates Inc.; and Duhig and Co., Inc.); Forum Energy Technologies, Inc. (including, but not limited to, Forum Canada ULC; P-Quip Limited; and Pro-Tech Valve Sales); Edgen Murray Corporation (including, but not limited to, Edgen Murray Group, Inc.); MSI Supply, Inc.; Schimberg Co.; Energy Valve & Supply Company, LLC; Klinger Advantage Inc.; NOW, Inc., d/b/a DNOW, Distribution Now, and Total Valve Solutions (including, but not limited to, DNOW Canada ULC) (collectively, "Prohibited Customers"). By proceeding with purchasing and shipment of goods from AVS, you are consenting that you will not resell or otherwise provide the goods provided by AVS to a Prohibited Customer. AVS will not be held liable nor responsible for any falsifications or neglect of buyer to abide by these legal obligations.

4. FORCE MAJEURE: AVS shall not be liable for non-performance and/or delay in performance resulting from any governmental law or regulation, now or hereafter in effect, or for delays caused by AVS's suppliers, or caused by acts of God, fire, flood, wind, sabotage, strikes or other labor troubles, accidents, necessary repairs to machinery, adverse weather conditions or other causes beyond AVS's control, including customs, duties, and/or changes in currency exchange rates. In the event of any of the foregoing, AVS shall have the right to allocate and reschedule production, delivery and/or cancellation of Equipment and/or Services to Buyer as AVS, in its sole discretion shall deem fair and practical without liability for any failure of performance, or consequential or incidental damages which may result.

5. DELIVERY: Sales are F.O.B. point of shipment and risk of loss shall pass to Buyer upon delivery of material to carrier unless otherwise expressly stated and agreed to in writing signed by both Buyer and AVS. Within ten (10) days after receipt of Equipment and/or Services, Buyer shall notify AVS in writing of any claims for non-conformity, shortages, errors in shipment or errors in charges. Failure to so notify AVS shall constitute conclusive evidence that AVS has satisfactorily performed and that Buyer has accepted the Equipment and/or Services and waived any right to reject the Equipment and/or Services. Equipment may be returned only upon AVS's prior written authorization. AVS's liability is limited to replacing non-conforming Equipment or Services or to allow credit to the extent of invoice value of such Equipment and/or Services, at AVS's option. All material accepted for credit is subject to AVS's normal restocking charge. No material will be accepted for credit after 90 days from date of shipment unless agreed upon in writ. Any delivery dates specified by AVS are approximate only and are based on normal plant operation. AVS shall not be liable for any liquidated damages including but not limited to loss, damage, or expense of any kind, whether arising from delay, transportation, or any other cause whatsoever. AVS shall be given reasonable opportunity and access to investigate the merits of any claim made under this Paragraph.

6. CANCELLATION AND RETURNS: Orders placed by Buyer may not be cancelled except upon AVS's prior written consent. In the event of cancellation, AVS shall be entitled to recover any and all damages suffered by it by virtue thereof as allowed by law, including but not limited to, AVS's costs and other commitments incurred to date of cancellation, AVS's incidental damages, and the profit AVS would have received from full performance of this contract. Cancellation schedules provided by AVS and its suppliers are non-negotiable. Return for credit is applicable only for the maximum amount agreed upon between the parties. AVS reserves the right to deny credit on returns for any products deemed un-sellable, damaged, mis-handled, tampered with, improperly stored, neglected, or misused, or any other damages accrued from buyer or buyer's constituents.

7. DEFAULT: If Buyer fails to make any payment when due, hereunder or under any other agreement between Buyer and AVS, or if the financial responsibility of Buyer becomes impaired or unsatisfactory in AVS's judgment, AVS may, without prior notice or demand and without breach of contract, defer shipments, cancel the unshipped balance of order, suspend performance of any obligation (including without limitation, repair, replacement or investigation obligations under Paragraph 8 herein) and/or take immediate possession of Equipment delivered until the full purchase price of Equipment and/or Services shall be paid by Buyer or, at AVS's discretion, until security satisfactory to AVS shall be given by Buyer. Any costs incurred by AVS as a result of suspending performance or repossession or collection shall be payable by Buyer.

8. SECURITY INTEREST: AVS hereby reserves a security interest in all of the Equipment until full payment of the purchase price of the same. Buyer shall execute and deliver such financing statements and other documents as may be requested by AVS from time to time for the purpose of evidencing the interest of AVS in the Equipment.

9. WARRANTY: AVS assigns the manufacturer's warranty to buyer. Warranty for modified products shall be maintained by the 3<sup>rd</sup> party utilized for customization, aftermarket, or re-work of the product. Any claim under this Warranty must be made by Buyer to AVS in writing within thirty (30) days of Buyer's discovery of the claimed defect. Any goods found to with defects, non-conformity, or incorrectly supplied shall be replaced or supplied by the manufacturer within its reasonable manufacturing timeline.

This warranty shall not apply to any equipment, which has been

- 1.) subjected to misuse, neglect, or accident, or
- 2.) has been altered or tampered with
- 3.) which has not been stored properly

AVS and its suppliers reserve the right to decline warranty claims if proof is unavailable to determine the accuracy of the claim.

10. MODIFIED AND SPECIAL-ORDERED PRODUCTS: Modifications to product as specified between buyer and seller by agreement through the purchase order document or supporting evidence through email, text message, iMessage, or other electronic communication, or verbally agreed between the parties, shall merit the product as non-cancellable and non-returnable. Special ordered products from AVS sub-suppliers, vendors, and associated manufacturers, shall be subject to cancellation fees. AVS reserves the right to determine products as non-cancellable and non-returnable with or without explanation. Refer to section 6: CANCELLATION for further elaboration.

Any recommendation or suggestion relating to the use of the Equipment and/or Services made by the manufacturer's input, whether in its technical literature or in response to specific inquiry, or otherwise, is based on data believed to be reliable; however, the Equipment and/or Services and information are intended for use by Buyers having the requisite skill and know-how in the industry, and therefore it is for Buyer to satisfy itself of the suitability of the Equipment and/or Services for its own particular use and it shall be deemed that Buyer has done so, at its sole discretion and risk. Variations in environment or changes in procedures or use may cause unsatisfactory results or damages.

11. LIMITATION OF LIABILITY: AVS's liability on any claim of any kind, including claims based upon AVS's negligence, or strict liability for any loss or damage arising out of, connected with, or resulting from the use of the Equipment and/or Services, shall in no case exceed the purchase price allocable to the Equipment and/or Services or part thereof which gives rise to the claim. UNDER NO CIRCUMSTANCES WILL AVS BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF BUYER OR ANY OTHER PARTY ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, FAILURE OF ANY REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE NOTWITHSTANDING THE FORM (e.g., CONTRACT, TORT, OR OTHERWISE) IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT.

12. INDEMNIFICATION: BUYER RELEASES AND WILL DEFEND, INDEMNIFY AND HOLD AVS (AND ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES) (COLLECTIVELY "INDEMNITEES") HARMLESS FROM ANY AND ALL LOSSES, LIABILITIES, SUITS, DAMAGES, CLAIMS, DEMANDS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) ("CLAIMS"), WHETHER BASED ON CONTRACT OR TORT (INCLUDING STRICT LIABILITY), RESULTING FROM A CLAIM BY A THIRD PARTY (INCLUDING ANY EMPLOYEE OF BUYER OR GOVERNMENTAL AGENCY) BASED ON ACTIONS BY AVS UNDERTAKEN UPON THE INSTRUCTIONS OF BUYER, OR ARISING OUT OF ITS PROVISION OF PRODUCTS OR SERVICES. THIS INDEMNITY WILL NOT COVER ANY LOSS, LIABILITY, CLAIM AND EXPENSE ARISING OUT OF AVS'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

**EXPRESS NEGLIGENCE: THE INDEMNIFICATION, RELEASE AND ASSUMPTION PROVISIONS PROVIDED FOR IN THIS AGREEMENT SHALL BE APPLICABLE WHETHER OR NOT THE LOSSES, COSTS, EXPENSES AND DAMAGES IN QUESTION AROSE SOLELY OR IN PART FROM THE ACTIVE, PASSIVE OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OF ANY INDEMNIFIED PARTY. BUYER AND AVS ACKNOWLEDGE THAT THIS STATEMENT COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS.**

13. RECOMMENDATION: No statement or recommendation made or assistance given by AVS or its representatives to Buyer or its representatives in connection with the use of any Equipment and/or Services by Buyer shall constitute a waiver by AVS of any of the provisions herein or affect AVS's liability, as herein defined, or be deemed to provide warranties additional to those set forth herein.

14. WAIVER: Waiver by AVS of any breach of any provision herein shall not be considered a waiver of any other or future breach of the same provision or of other provisions.

15. ASSIGNMENT: Buyer may assign this Agreement only pursuant to a merger, acquisition, sale of all or substantially all assets, corporate reorganization or other similar transaction, provided that the scope of use of any Equipment and/or Services provided hereunder will not be expanded beyond the business of Buyer and its majority owned subsidiaries and assignee assumes, and is capable of assuming, all obligations (including financial) of Buyer hereunder. AVS may assign this Agreement to any successor to AVS's interests in the subject matter. AVS may assign its right to payment hereunder or grant a security interest in this Agreement or such payment right to any third party. AVS may perform any obligation pursuant to this Agreement using agents and subcontractors.

16. ENGINEERING AND SERVICE. Upon request, AVS will provide engineering and/or technical information regarding its products and their uses. If confidential and/or proprietary materials and/or information is furnished and/or requested, the Buyer will be asked to sign a non-disclosure agreement, before such material and/or information is furnished. Should Buyer refuse to sign the provided non-disclosure agreement, then AVS will provide more general engineering and/or technical information and/or such information that does not contain confidential and/or proprietary information. Further, any such information, service or assistance so provided, whether with or without charge, shall be advisory only. In this regard, neither AVS nor Buyer assumes any liability for the acts or omissions of the other party or of third parties.

Please note that AVS offers equipment operation manuals in English. However, AVS can offer same operational manuals in other languages for a fee upon request.

17. MISCELLANEOUS:

(a) AVS and Buyer are independent parties. Nothing in this Agreement will be construed to make either party an agent, employee, franchisee, joint venturer, or legal representative of the other party.

(b) This Agreement will be governed by and interpreted in accordance with Texas law, excluding its conflict of law principles, and both parties consent to the jurisdiction of the federal and state courts of Harris County, Texas, waiving any objection to forum non conveniens.

(c) AVS will be entitled to its reasonable attorneys' fees in addition to any other damages and amounts awarded to it in any action to collect unpaid fees owed pursuant to this Agreement.

(d) This Agreement constitutes the complete and entire statement of all terms, conditions, and representations of the agreement between AVS and Buyer with respect to its subject matter and supersedes all prior writings or understandings.

(e) If any provision of this Agreement is held unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement. Paragraphs 2, 7, 9, 11, 12, 14 and 15 of this Agreement will survive any expiration or termination of this Agreement.

(f) No waiver, amendment, or other modification of this Agreement will be effective unless in writing and signed by the party against whom enforcement is sought.