



GEMU VALVES CANADA, INC. TERMS AND CONDITIONS OF SALE

THESE TERMS AND CONDITIONS, effective _____ by and between Gemu Valves Canada Inc., and
_____, a(n) _____ organized and existing
under the laws of the Province of _____, having its principal place of business at
_____,
along with its subsidiaries and affiliates. (the "Buyer").

All Terms and Conditions provided in Gemu's quote, proposal, invoice, shipping document, or other writings, whether or not pre-printed or signed by Buyer's authorized representative will constitute final agreement of terms and conditions between Buyer and Seller. This signed agreement between Buyer and Gemu will constitute acceptance of this statement for all present and future orders placed by Buyer.

Gemu's Terms and Conditions are outlined in the form below.

Buyer Authorized Representative Signature: _____

Date: _____

Gemu Authorized Representative Signature: _____

Date: _____

Terms and Conditions of Sale

These Terms and Conditions of Sale (“**Terms**”) apply to the purchase of the products set out in the quotation, order or invoice to which these Terms are attached (“**Order**”):

1. DEFINITIONS

In addition to the terms defined elsewhere in these Terms, the following terms have the following meanings: (a) “**Agreement**” means, collectively, these Terms, the Order, the Policies, and any schedules attached to any of the foregoing; (b) “**Buyer**” means the buyer identified in the Order; (c) “**Gemü**” means Gemü Valves Canada Inc.; (d) “**Goods**” means the valves, diaphragms, and/or components to be provided by Gemü, as set out in the Order; (e) “**Parties**” means Buyer and Gemü, and “**Party**” means any one of them; (f) “**Policies**” means the Privacy Policy and such other policies as Gemü may identify from time to time; and (g) “**Privacy Policy**” means the Gemü privacy policy, available at: www.gemu-group.com.

2. ENTIRE AGREEMENT

The Agreement constitutes the entire understanding and agreement between the Parties with respect to the purchase of the Goods, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations, warranties, and communications, both written and oral, between the Parties related to the purchase of the Goods. For clarity, any terms and provisions contained in any document of Buyer shall not be binding on Gemü and shall not be considered applicable to the sale or shipment of the Goods.

3. PRICES AND PAYMENT

- 3.1 Prices. Buyer shall pay Gemü the prices for the Goods, including all applicable taxes and delivery charges, as set out in the Order. Taxes and delivery fees may vary for each delivery location.
- 3.2 Payment. Gemü shall invoice Buyer as of the date of shipment of the Goods and such invoice shall be payable by Buyer within thirty (30) days of the invoice date. Notwithstanding the foregoing, payment for the Goods shall, if Gemü so requires, be made in full prior to delivery and Gemü shall be entitled to withhold delivery until such payment has been made and any cheque or other negotiable instrument given in payment has cleared. If Buyer fails to pay to Gemü any amounts payable hereunder on the date on which such amounts are due, then Gemü may, in its sole discretion, charge interest on the overdue amounts at the rate of two percent (2%) per month or cancel or suspend delivery of the Goods until full payment of all money due and owing is received by Gemü.
- 3.3 Taxes. Buyer is responsible for any and all applicable taxes levied on or measured by, or referred to as transfer, registration charges, gross receipt, sales, retail sales, commodity, use, consumption, goods and services, harmonized sales, value-added, turnover, excise or stamp, all customs duties, and special import measures and all import and export taxes (collectively, “**Taxes**”). For clarity, Buyer will be liable for and will pay and/or reimburse Gemü for any and all Taxes in connection with the sale and transfer of the Goods.

4. DELIVERY

- 4.1 Delivery. Any delivery times or dates set out in the Order are estimates only and Gemü will not be liable to Buyer or any third-party as a result of its failure to make the Goods available by the shipment date. All Goods shall be delivered Ex Works from Gemü’s shipping point (“**Facility**”). Gemü shall fulfill its obligation under the Agreement when it places the Goods at the disposal of Buyer, or its designated carrier, at the Facility. Buyer is responsible for all costs and expenses associated with the handling and

transport of the Goods from the time the Goods are made available at the Facility, including all required transport expenses, insurance, duties, taxes, fees, levies and charges of a similar nature.

- 4.2 **Fulfillment.** Gemü shall use reasonable efforts to fulfill each Order. Depending on the size of the Order or the availability of Goods, Buyer may receive several shipments to complete the Order. Buyer acknowledges that Gemü's ability to fulfill each Order is subject to any allocations it deems necessary in the event of any shortages of Goods, production or delivery delays, events of force majeure or other reasons beyond Gemü's control. In such circumstances, Gemü shall not be liable to Buyer or any other party, as a result of its failure to deliver or make available the Goods.
- 4.3 **Title and Risk of Loss.** Risk of loss or damage to the Goods shall pass to Buyer at the time the Goods are made available to Buyer, or its designated carrier, at the Facility. Gemü shall retain all legal and beneficial title in the Goods until Gemü has received payment in full for such Goods. Until payment for the Goods has been received in full, Buyer may not sell, transfer, convey, pledge, hypothecate or otherwise use the Goods as security for any borrowing or other purpose.
- 4.4 **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 Gemü are paid in full. Evidence of such insurance satisfactory to Gemü shall be submitted by Buyer prior to shipment or Gemü may procure such insurance at Buyer's expense.

5. EXCLUSIVE WARRANTY

Gemü warrants that the parts and components of the Goods manufactured or processed by Gemü (each, a "**Gemü Manufactured Good**") will be free from defects in workmanship and materials for a period of one (1) year from the date of shipment to Buyer ("**Warranty**"). For clarity, the Warranty does not extend to parts or components of the Goods not manufactured or processed by Gemü and Gemü shall, to the extent possible, pass to Buyer the benefit of any guarantee or warranty given to Gemü in respect of such parts or components. No Gemü Manufactured Good may be returned without the express prior written approval of Gemü. Buyer shall notify Gemü during the Warranty period, if a Gemü Manufactured Good does not conform to the Warranty, including reasonable details regarding the Gemü Manufactured Good in question and the alleged defects. On Gemü's request, Buyer shall provide full details and answer all questions from Gemü, so that it may conduct any investigations that it considers necessary, desirable or appropriate in the circumstances. If Gemü, in its sole discretion, determines that such Gemü Manufactured Good does not conform to the Warranty, Gemü shall, in its sole discretion: (a) repair, or designate a third-party to repair, the defective Gemü Manufactured Good; (b) replace the defective Gemü Manufactured Good; or (c) take back the defective Gemü Manufactured Good and provide a refund or credit for the monies paid to Gemü, less a reasonable allowance for use. The foregoing shall be Buyer's sole and exclusive remedy for any defects or failures in Gemü Manufactured Goods.

6. RISK ACKNOWLEDGEMENT

Buyer acknowledges and agrees that, in respect of its use or misuse of any Goods, it may be engaging in activities that involve risk of bodily injury, disability, illness, disease, death, financial loss, property loss, damage, destruction or other harm of any nature which might result not only from Buyer's own actions, inactions or negligence, but also the actions, inactions or negligence of others, regardless of any pre-existing vulnerability (collectively, "**Risks**"). Buyer voluntarily and knowingly assumes all the Risks and accepts personal responsibility for any and all loss, damage, expense (medical or otherwise), injury (including death or permanent disability), illness, accident or harm that may be suffered or incurred, as a result of Buyer's or its Representatives' (as defined in Section 7) use or misuse of the Goods.

7. INDEMNITY

To the maximum extent permitted by applicable law, Buyer shall indemnify, defend (at Gemü's option)

and hold harmless Gemü and its directors, officers, employees, agents and other representatives (collectively, “Representatives”) from and against all claims, losses, liabilities, damages, suits, actions, penalties, demands, levies, costs and expenses (including reasonable legal and advisory fees) of whatever kind or nature (collectively, “Claims”) arising from or relating to: (a) Buyer’s use or misuse of the Goods; (b) Buyer’s breach of any term or condition of the Agreement; (c) any act or omission by Buyer, including its negligence or willful misconduct; (d) Buyer’s violation of any applicable law in connection with its use of the Goods; (e) Buyer’s cause of, or contribution to, the injury, illness, disability (including permanent disability) or death of a third party; and (f) Buyer’s unauthorized use of any intellectual property of a third party.

8. MAXIMUM LIABILITY

In no event will Gemü be liable for any direct, indirect, punitive, special, incidental, exemplary or consequential damages, including damages for loss of use, loss of data, loss of profits, business interruption, or any other damages whatsoever arising out of or in any way related to the Agreement. These limitations will apply regardless of the Claim, and regardless of whether Gemü has been advised of the possibility of such damages. If circumstances arise where Buyer is entitled to recover damages relating to the Agreement, the aggregate liability of Gemü, if any, will in no event exceed the total price paid by Buyer for the specific Good giving rise to such Claim, as set out in the Order.

9. LIABILITY DISCLAIMER – READ CAREFULLY

Except as expressly set out in the Agreement, and to the fullest extent permitted by applicable law, Gemü makes no representations or warranties of any kind, whether express, implied, statutory or otherwise regarding the Goods, which are provided on an “as is” and “as available” basis. Gemü expressly disclaims all representations, warranties, guarantees, covenants and conditions of any kind relating to the Goods, including any warranty or condition of merchantability, merchantable quality, durability, title, non-infringement or fitness for a particular purpose. Gemü disclaims all responsibility for any loss or damage arising from the improper use or maintenance of the Goods. Buyer is solely responsible for determining the suitability of the Goods for its specific use.

10. INTELLECTUAL PROPERTY

- 10.1 Ownership. Notwithstanding any other provision in the Agreement, no title or ownership of the copyright, trademark, trade secret and other intellectual property or proprietary rights in the Goods is transferred to Buyer by virtue of the Agreement notwithstanding the use of terms such as “purchase”, “sale” or the like within the Agreement.
- 10.2 Restrictions. Buyer agrees not to modify, reproduce, distribute or create derivative works of any Gemü intellectual property, nor use the Goods, or any associated intellectual property, for any commercial purpose. Gemü reserves all rights to protect its intellectual property and enforce the terms of the Agreement, including seeking injunctive relief and damages.

11. DATA PROTECTION AND PRIVACY

Gemü collects and processes certain personal information related to your Order (“**Personal Data**”), solely for Order fulfillment and customer support purposes, as outlined in the Privacy Policy. Gemü complies with applicable data protection laws and takes appropriate security measures to protect Personal Data against unauthorized access, disclosure or misuse. Subject to applicable laws, Buyer may request access, correction or deletion of its Personal Data, or withdraw consent where processing is based on consent. Please direct such requests to Gemü at privacy@gemu.com. Gemü may use third party service providers for services such as payment processing and shipping under confidentiality obligations. Personal Data will be retained only as necessary to fulfill these Terms and comply with legal requirements.

12. DISPUTE RESOLUTION

- 12.1 Good Faith Negotiations. In the event of a dispute between the Parties arising out of or in connection with this Agreement, the Parties shall make all reasonable efforts to resolve the dispute by amicable negotiations within thirty (30) days after a written request by either Party.
- 12.2 Arbitration. In the event a dispute is not settled through negotiation in accordance with Section 12.1, then the dispute may be submitted to final and binding arbitration by either Party. Such arbitration will take place in Ottawa, Ontario and will be governed by the ADR Institute of Canada Arbitration Rules (“**ADR Rules**”). A single arbitrator shall be selected in accordance with the ADR Rules. The language of the arbitration shall be English. The arbitrator’s award may be entered into any court having jurisdiction. Expenses and fees of any arbitrator will be shared equally by the Parties, but each Party shall otherwise bear its own legal and other expenses.

13. MISCELLANEOUS

- 13.1 Relationship of the Parties. Gemü and Buyer are independent contractors. The Agreement does not constitute either Party as an agent, legal representative, sales representative, franchisee, partner, employee, servant or joint venturer for any purpose of the other Party. Neither Party will have any authority to make statements, representations or commitments of any kind, or to take any action or incur any liability, which will be binding on the other Party.
- 13.2 Force Majeure. Gemü will not be liable to Buyer or any third party for the termination or cancellation of an Order, or any delay or failure in Gemü’s performance under the Agreement due to any cause beyond its reasonable control, including acts of God, epidemics, pandemics, public health emergencies, earthquakes, floods, fires, explosions, delays in transportation, unavailability of equipment or materials, breakdown, lock-outs, strikes or labor disputes, embargoes, riots, sabotage, terrorism, governmental acts or any other events that could not have been reasonably foreseen or mitigated. Gemü will make reasonable efforts to resume performance as soon as practicable but reserves the right to cancel the affected Order without liability.
- 13.3 Waiver. Except as otherwise expressly provided herein, a waiver by any Party of any rights or the failure to exercise any remedy will not operate or be construed as a continuing waiver of the same right or remedy or any of the other of such Party’s rights or remedies.
- 13.4 Assignment. These Terms are binding upon Buyer, its heirs, executors, beneficiaries, successors and assigns and Buyer may not assign these Terms to any other party without Gemü’s prior written consent, which consent may be withheld in Gemü’s sole discretion.
- 13.5 Governing Law. The Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to any conflict of laws provisions. Buyer expressly attorns to the exclusive jurisdiction of the courts located in the Province of Ontario in connection with any matter arising out of or relating to the Agreement, unless otherwise agreed by Gemü in its sole discretion. The Parties specifically exclude the application of the *United Nations Convention on Contracts for the International Sale of Goods* and the application of any domestic statute that has adopted it into law.
- 13.6 Severability. If any provision of the Agreement, or any part thereof, is determined to be invalid or unenforceable, all remaining provisions of the Agreement and all terms not so invalidated shall be considered severable from the invalidated provision.
- 13.7 Language of Agreement. *L’Acheteur a eu accès à une version française du Contrat. Si, néanmoins, l’Acheteur choisit d’accepter uniquement la version anglaise du Contrat, il sera réputé avoir exigé que le Contrat et tous les documents connexes soient rédigés uniquement en anglais. En cas de conflit ou*

d'incohérence entre les versions française et anglaise du Contrat, la version anglaise prévaudra. Buyer has been provided access to a French version of the Agreement. If, notwithstanding, Buyer chooses to accept only the English version of the Agreement, it will be deemed to have required that the Agreement and all related documents be drafted in English only. In the event of any conflict or inconsistency between the French and English versions of the Agreement, the English version shall prevail.