

## SUMMIT VALVE TERMS AND CONDITIONS

Effective Date: Dec/98

1) **Contracts** - The following terms and conditions shall be included as a part of any purchase order(s) given to Summit Valve and Controls Inc. (hereafter referred to as 'Summit'). Purchase orders which modify, make additions to, contradict, or are in any way inconsistent with the terms and conditions stated are not considered accepted, and thus a contract, until acknowledged in writing by Summit. Verbal orders will not be considered a firm order. Quotations by Summit are for immediate acceptance unless Summit states in writing a definite time period of validity within which the quotation must be accepted in whole to be valid.

2) **Prices** - List prices and discount schedules of all Summit products are subject to change without notice. All orders released for immediate shipment will be invoiced at the prices in effect at time order is received at Summit. Any order whose delivery is delayed per the customer's request or is scheduled by Summit in excess of one hundred and twenty days will be invoiced at the published list prices and discounts effective at the shipment time or at the prices agreed upon at the time of order acceptance by Summit.

3) **Taxes** - Any taxes, either present or future in nature that are applicable to the products sold by Summit, shall be incurred by the customer or, if payable to Summit, then added to the purchase price invoiced to the customer.

4) **Clerical Errors** - Summit reserves the right to correct all clerical errors or omissions in any documents whether quotations, invoices, etc.

5) **Warranty** - Summit provides the following warranty regarding product manufactured by it. **The warranty stated herein is expressly in lieu of all other warranties and representations, express or implied, or statutory including without limitation, the implied warranty of fitness for a particular purpose.** Summit warrants its products to be free from defects in materials and workmanship when these products are used for the purpose for which they were designed and manufactured. Summit does not warrant its product against chemical or stress corrosion or against any other failure other than defects in materials or workmanship. The warranty period is for twelve (12) months from installation date or eighteen (18) months from shipment date, whichever date comes first. Any claim regarding this warranty must be in writing and received by Summit before the last effective date of the warranty period. Upon Summit's receipt of a warranty claim, Summit reserves the right to inspect the product(s) in question at either the field location or at Summit's Sales Office. If, after inspection of the product(s) in question, Summit determines that the purchaser's claim is covered by this warranty, Summit's sole liability and the purchaser's sole remedy under this warranty is limited to the refunding of the purchase price or repair or replacement thereof at Summit's option. Summit will not be liable for any costs of repairs, labor, materials, or other expenses that are not specifically authorized in writing by Summit, and in no event shall Summit be liable for any direct or consequential damages arising out of any defect or from any cause whatsoever. If any Summit product is modified or altered at any location other than Summit's Edmonton Sales Office without the express written authorization of Summit, then this warranty is null and void. Any products sold by Summit but manufactured by companies other than Summit are not covered by this warranty. The warranty for such products shall be subject only to the warranty relief, if any, provided by the suppliers and/or design of Summit products.

6) **Liability** - In addition, and not in limitation of any other term of these Terms and Conditions of Sales, Summit shall not be liable for any claims for contingent, special, or consequential damages, such as, but not limited to, those stated hereafter. In no event shall Summit be held liable for the loss of profits, for the loss of the use of process, facilities, equipment, plant, or product of the purchaser or the end user whether partially or otherwise due to defects in material, workmanship, or design of Summit products.

7) **Force Majeure** - In no event shall Summit be liable for any losses, costs, damages or other expenses resulting from failure or delay in delivery due to acts of God, orders bearing priority rating established pursuant to law, differences with workmen, local labor shortages, fire, flood or other casualty, government

regulations or requirements, shortages or failure of raw materials, supplies, fuel, power, or transportation, breakdown of equipment, or any other causes beyond Summit's control, whether similar or dissimilar to those enumerated. Summit shall have such additional time as may be reasonably necessary to perform its obligations thereunder in the event of the occurrence of any of the events described above. In no event shall Summit be liable for any consequential damages or claims for labor resulting from failure or delay in delivery.

8) **Claims Notice** - Upon receipt of shipments from Summit, the purchaser should inspect such shipment for shortages and incorrect materials. Such claims must be filed in writing and received by Summit within ten (10) days from the time such shipment was received by Purchaser. Any warranty claims must be made in writing within (14) days after the purchaser becomes aware of the facts the such claim will be based. Any claim, whether receiving or warranty in nature, must be received within the time period stated above or such claim will be forever waived.

9) **Delivery** - Delivery times are quoted and established by Summit on the basis they are as accurate as possible given the conditions prevailing at the time of quotation. All delivery times are confirmed or modified at the time of the order acknowledgment. Deliveries quoted are subject to prior sales, and the time of delivery begins upon the order release from the customer. In no instance does Summit guarantee delivery times, nor will Summit assume any liability for damages, losses, or expenses resulting from Summit's failure to deliver products within the quoted delivery times.

10) **Inspection** – For orders requiring Purchaser's Inspection, all products on such order(s) must be inspected and accepted at Summit's Sales Office.

11) **Change Orders or Cancellations** - Orders received and accepted by Summit may not be changed or canceled except on terms satisfactory to Summit and prevent Summit from incurring any loss. Changes or cancellations of products considered non-standard or special will not be accepted without full reimbursement of all related expenses incurred to date. All cancellations and change orders must be made in writing to and approved by Summit subject to appropriate charges to the Purchaser.

12) **Return Goods** - No materials may be returned for credit without prior written approval from Summit. In issuing credits, Summit will deduct shipping, restocking and reconditioning expenses from the Purchaser's credit.

13) **Design Changes** - Summit reserves the right to change, discontinue, or alter the design and construction of any product without prior notice and to have no obligation for such changes, alterations, or discontinuance of products previously or subsequently sold.

14) **Shipments** - All prices are quoted F.O.B. Summit, Edmonton, Alberta. Summit's responsibility for products ends when the transportation companies receive such products from Summit. Summit does not insure shipments beyond the point to such transportation company and, therefore, all claims of lost or damaged products in transit must be filed directly with the transportation company by the Purchaser. While Summit reserves the right to choose the carrier of its choice for product delivery, Summit will ship via the Purchaser's choice if routing is satisfactory and rates equal to or less than Summit's normal choice. In the case of higher than normal special shipping requirements, Summit will ship goods on a prepay charge or collect basis. The purchaser will receive no credit for freight charges normally incurred by Summit. There may be only one destination per order.

15) **Miscellaneous Charges** - The minimum billing per order is \$75.00. Any extra expenses incurred by Summit such as engineering, tagging, taxes, service calls, export crating, or other expenses will be added to the invoice after notification to the purchaser of the extra costs. Should Summit be requested to hold shipments for a purchaser, such shipment will be held at the risk and cost of the purchaser, and Summit shall have the right to bill the purchaser for insurance and storage costs. Any orders on hold more than sixty days will be treated as a canceled order and returned goods.

16) **Payment Terms** - All invoices for Canadian purchasers will be due net thirty (30) days from date of invoice unless otherwise stated by Summit. All invoices for international purchasers will be confirmed, irrevocable Letters of Credit due on delivery to Canadian freight forwarder, Canadian port. All amounts past due of a purchaser will be charged a 1&3/4% per month service charge or the maximum annual rate allowable by law if less.

17) **Published Data** - All published dimensions, weights, temperatures, pressure ratings, and other data are approximate; if critical, consult factory.

18) **Quotations** - The quantities listed on our quotations are to be considered estimates only, actual quantities should be confirmed based on the requirements of the project.