



TERMS AND CONDITIONS

The following terms and conditions apply to all sales by co-ax valves inc. ("co-ax") to the purchaser ("Purchaser") of any and all products manufactured and/or distributed by co-ax ("Products") and to all quotations and offers made by and purchase orders accepted by co-ax pursuant to an Order Acknowledgement. co-ax's acceptance of all orders is expressly limited to, and expressly made conditional on, Purchaser's acceptance of these terms and conditions, subject only to any special terms set forth in the purchase order and confirmed and accepted by co-ax in a written order acknowledgement ("Special Invoice Terms") and delivered to Purchaser. The terms and conditions contained herein, subject to any Special Invoice Terms, are the sole terms and conditions on which the order of the Purchaser will be accepted; co-ax objects to and hereby rejects any and all different or additional terms and conditions contained in any other document or in any other written or verbal communication. Neither co-ax's commencement of performance or shipment or delivery of Products shall be deemed or construed as acceptance of any additional or different terms and conditions. Purchaser agrees that all purchase orders placed by Purchaser shall be governed by these terms and conditions and any Special Invoice Terms, whether or not such terms and conditions accompany co-ax's shipment of Products.

1. Purchase Price and Taxes.

a) The purchase prices for Products shall be the amounts set forth in the applicable co-ax quotation or invoice. Unless otherwise stated, co-ax's quotation shall be null and void unless accepted by Purchaser within thirty (30) days from the date shown on the quotation.

b) Unless otherwise agreed in writing by co-ax, such prices do not include any applicable sales, use, excise, property, or other federal, state, county, municipal, local, or foreign taxes, value-added or other indirect taxes, customs duties, tariffs, or other imposts, and any related penalties and interest (collectively, "Taxes"). Purchaser shall pay when due any Taxes in any way relating to the transactions contemplated by these terms and conditions and/or the applicable purchase order or invoice.

2. Terms of Payment and Delivery.

Except where otherwise provided herein or specified in writing by co-ax: (a) any and all orders placed by Purchaser shall be paid net thirty (30) days of co-ax's invoice; (b) except for first time purchasers (which must pay by credit card), payments may be paid by either credit card, wire transfer, or ACH, provided that, if paid by credit card, Purchaser shall also pay any applicable service fee unless the purchase order is the first sale of Products by co-ax to the Purchaser, in which event, payment shall be made by Purchaser with and through a credit card issued to Purchaser and co-ax will pay any service fee such that the net price of the Product will not include any such credit card processing fee; (c) Purchaser shall advise co-ax which payment method to apply, except for first time purchasers, which must purchase using a credit card; (d) Purchaser shall advise co-ax whether freight insurance is desired; (e) all payments shall be made in United States dollars; and (f) Products shall be shipped to Purchaser F.O.B. co-ax's facility in Bristol, PA. Purchaser will be charged freight collect unless co-ax has agreed, in writing, to accept another form of payment. An invoice (which may or may not contain Special Invoice Terms) will be forwarded at the time of shipment, and co-ax shall use reasonable

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efforts to ship Products by the method specified by Purchaser; provided, however, that all shipment and delivery dates are approximate. The shipment date is the date when the Products have left co-ax's facility. The delivery date is the date when the Products have reached the Purchaser's facility. Shipments of Products are in all cases subject to availability, and partial shipments by co-ax of quantities of Products requested in the purchase order are permitted. PURCHASER SHALL NOTIFY CO-AX, WITHIN FIVE (5) BUSINESS DAYS AFTER THE DELIVERY DATE, OF ANY CLAIMED SHORTAGES OR DEFECTS OR REJECTION AS TO ANY PRODUCTS DELIVERED. Such notice shall be in writing and shall be reasonably detailed, stating the grounds for any such rejection. Failure to give any such notice within the five (5) business day period shall be deemed an acceptance in full of the delivered Products. Purchaser shall select the method of shipment, and the carrier selected by Purchaser shall be the agent of Purchaser. The shipment date quoted by co-ax is its best estimate and is based upon applicable conditions at the time of quotation, and therefore such date shall be interpreted as being estimated and in no event shall time be of the essence regarding such date. Purchaser may not delay delivery of the Products without co-ax's written consent. Purchaser agrees to pay all costs (including without limitation storage expenses) such delay imposes on co-ax. If delivery of the Products is delayed by Purchaser without co-ax's consent, payment in full of the purchase price for such Products shall become due when Purchaser is notified that such Products are ready for delivery and the Products shall thereafter be held by co-ax at Purchaser's risk.

3. Cancellations and Returns.

Orders for standard (off-the-shelf) Products may be canceled at any time and for any reason by Purchaser prior to shipping. Orders for non-standard Products may be cancelled at any time and for any reason by Purchaser prior to commencement of co-ax's production of such Products or the ordering of any supplies needed to produce such Products. ONCE PRODUCTION HAS BEGUN OR SUPPLIES HAVE BEEN ORDERED, ALL ORDERS FOR NON-STANDARD PRODUCTS ARE NOT SUBJECT TO CANCELLATION AND, SUBJECT TO THE PAYMENT TERMS OF SECTION 2, ALL PRODUCTS ARE NON-RETURNABLE, AND ALL SALES ARE FINAL. In co-ax's discretion and subject to co-ax's prior written approval, Purchaser may cancel delivery to avoid delivery costs, but shall still be obligated to pay for the ordered Products.

4. Risk of Loss.

Anything herein or in applicable law to the contrary notwithstanding, Purchaser shall bear the risk of loss, deterioration, and damage to the Products from the time they are ready for shipment. Freight insurance may be purchased at Purchaser's option and expense and it shall be the responsibility of Purchaser to advise co-ax if freight insurance is desired, as set forth in Section 2. If Purchaser causes a delay in delivery, Purchaser shall bear the risk of loss from the time the Products are ready for shipment.

5. Retention of Title and Granting of a Security Interest.

Until full payment has been made for the Products, co-ax shall retain all ownership or and title to the Products. Purchaser hereby grants to co-ax a security interest in the Products and the proceeds thereof which security interest shall attach immediately upon title to the Products passing to Purchaser. The security

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interest shall remain in effect until payment in full has been made by Purchaser for the Products. These terms and conditions constitute a security agreement between Purchaser, as debtor, and co-ax, as secured party, under the Uniform Commercial Code as adopted in Pennsylvania (13 Pa.C.S. 1101, et seq.), and co-ax has the rights and remedies of a secured party thereunder. Purchaser hereby authorizes co-ax to file financing statements to perfect the security interest granted and to do any other act or thing necessary or useful, in co-ax's sole and absolute discretion, in perfecting co-ax's security interest in the Products and shall cooperate fully with co-ax in this regard.

6. Service Fee and Collection Costs.

If Purchaser does not pay for the Products in accordance with the terms of Section 2, Purchaser shall pay interest in the amount of 1.5% per month computed for each twenty-four (24) hour period during which payment remains in arrears.

7. Acceleration.

Upon any breach by Purchaser of these terms and conditions, co-ax may demand immediate payment of any and all amounts owed by Purchaser to co-ax hereunder or under another contract of sale between Purchaser and co-ax. Additionally, co-ax may, by written notice to Purchaser, cancel any previously accepted purchase order for which Purchaser has not made payment; provided that any such cancellation shall not relieve Purchaser of any amounts owed hereunder, including for products for which production has begun or special supplies have been ordered.

8. Warranties and Purchaser's Remedies.

co-ax warrants that the Products delivered hereunder shall conform with the description in the Order Acknowledgement. co-ax shall be liable to Purchaser for defects in the Products, including failure to meet expressly warranted specifications, as follows, to the exclusion of any other claims:

- a) Should any part of the Products be found (under normal use and service) within twelve (12) months after date of shipment from co-ax to have been defective when shipped, co-ax's sole obligation will be to repair or replace said part (in its sole discretion) at co-ax's plant. This warranty does not cover wear and tear caused by excessive use, only normal use and service. The discovery of defects must be immediately reported in writing to co-ax. Defective parts replaced by co-ax are the property of co-ax. The repaired or replaced Products are warranted to be free from defects in material and workmanship under normal use and service for a period of 90 days from the date that the repaired or replaced parts are shipped from co-ax's plant, or until the termination of the original warranty, whichever is longer. Purchaser shall be responsible for all removal, installation, packaging, shipping, insurance, and freight costs to return and replace non-conforming goods. co-ax shall in no way be liable for changes, alterations, attachments, repairs, or modifications, and this warranty shall not apply if the Products have been damaged by misuse, negligence, or accident, if Purchaser fails to use the Products (or any accompanying supplies or materials) in accordance with co-ax's specifications), or if Purchaser is in default of its obligations hereunder.

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- b) co-ax’s liability hereunder will expire six (6) months after the transfer of risk from co-ax to Purchaser, unless shipment is delayed for reasons caused by co-ax, in which event co-ax’s liability hereunder will expire six (6) months after the date of shipment to Purchaser.
- c) co-ax shall also transfer to Purchaser all warranties, if any, that co-ax has received from a third-party manufacturer only to the extent provided and permitted by such third-party manufacturer and subject to all conditions of such manufacturer’s warranty. Should any Products be found not to conform with such manufacturer’s warranty during the warranty period, Purchaser shall promptly notify co-ax, and co-ax shall, at its sole option, (i) contact the manufacturer and request that it provide to Purchaser the remedy available from the manufacturer, if any; (ii) repair or replace the defective Product; or (iii) refund to Purchaser or issue a credit to Purchaser for the purchase price of the defective Products. This shall be co-ax’s sole and exclusive liability and Purchaser’s sole and exclusive remedy with respect to third party warranties. CO-AX SHALL NOT BE LIABLE FOR ANY CHANGES OR MODIFICATIONS BY THE MANUFACTURER IN THE DESIGN OR CONSTRUCTION OF PRODUCTS
- d) Any and all returns pursuant to Purchaser’s warranty claim will be subject to co-ax’s Return Material Authorization (RMA) procedures (available on the co-ax website). Purchaser’s claim must be made in writing and delivered to co-ax within the warranty period. Purchaser must return alleged non-conforming goods to co-ax within sixty (60) days after Purchaser’s receipt of a RMA number from co-ax. Purchaser shall be responsible for all removal, installation, packaging, shipping, insurance, and freight costs to return and replace non-conforming goods.
- e) Unless otherwise agreed by quadax, Purchaser will not have the right to claim compensation or to set-off against any amounts which become payable to co-ax herein or otherwise. If co-ax agrees to recognize such a claim, the obligations of Purchaser to pay interest in accordance and otherwise comply with Section 6 hereof shall not be affected.

co-ax shall not be liable for damages caused by (a) use of the Products in any manner other than the use expressly specified (e.g., with regard to pressure, temperature, etc.) and/or use of the Products for other media than was communicated to co-ax by Purchaser upon execution of the purchase order, (b) unsuitable or improper use, defective installation, or improper startup by Purchaser or third parties, (c) normal wear and tear, (d) defective or negligent handling by Purchaser or third parties, (e) use with or exposure to unsuitable consumables or substitute materials or chemical, electrochemical, or electrical influences.

Notwithstanding the foregoing, the warranty of the Products shall be immediately rendered void if the tape/tamper seal on the subject Product has been broken after the Products are ready for shipment.

9. DISCLAIMER OF ALL OTHER WARRANTIES.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY EXCLUDED. IN PARTICULAR, CO-AX EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY USAGE OF TRADE OR COURSE OF DEALING, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF

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MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND WARRANTY AGAINST INFRINGEMENT. Notwithstanding anything in these terms and conditions to the contrary, unless agreed otherwise in writing, no warranty is given that the Products meet any requirements, specifications, plans, or shop drawings provided by Purchaser, and no warranty is given for any particular application or use by Purchaser, whether communicated to co-ax or otherwise. co-ax shall not be liable to Purchaser for any technical assistance or information related to the Products given by co-ax or any suggestions by co-ax regarding the use, selection, application, or suitability of the Products by Purchaser.

10. LIMITATION OF LIABILITY.

CO-AX'S LIABILITY TO PURCHASER FOR DEFECTIVE OR NON-CONFORMING PRODUCTS, FOR DELAY IN SHIPMENT OR DELIVERY, OR FOR ANY OTHER BREACH OF THESE TERMS AND CONDITIONS, SHALL BE LIMITED TO ITS OBLIGATIONS AS STATED IN THESE TERMS AND CONDITIONS. CO-AX SHALL NOT BE LIABLE FOR ANY DELAYS OR DAMAGES CAUSED BY ANY THIRD PARTY CARRIER OF SHIPPED PRODUCTS OR BY ANY FORCES OR EVENTS OUTSIDE OF CO-AX'S REASONABLE CONTROL.

- a) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, PURCHASER EXPRESSLY AGREES THAT CO-AX SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF BUSINESS OR LOSS OF GOOD WILL, WHETHER CLAIMED UNDER CONTRACT, TORT, INDEMNITY OR ANY OTHER LEGAL THEORY.
- b) PURCHASER EXPRESSLY AGREES THAT UNDER NO CIRCUMSTANCES SHALL CO-AX'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR ANY SALE HEREUNDER (INCLUDING BUT NOT LIMITED TO ANY WARRANTY CLAIMS HEREUNDER) EXCEED THE TOTAL AMOUNT THAT PURCHASER HAS PAID TO CO-AX HEREUNDER FOR THE PURCHASE OF THE PRODUCTS THAT ARE THE SUBJECT OF SUCH LIABILITY.
- c) Any action for breach herein or any other action otherwise arising hereunder must be commenced within twelve (12) months after the cause of action accrues, or such action shall be deemed barred.

11. Purchaser's Remedies Exclusive.

Purchaser's remedies set forth herein shall be the sole and exclusive remedies of Purchaser and co-ax's sole and exclusive liability.

12. Indemnification.

Purchaser shall indemnify, defend, and hold co-ax harmless against any expense or liability from claims arising from or related to (i) unfair competition or infringement or contributory infringement of any patents, trademarks or copyrights related to any Built-to-Spec Products sold hereunder or to Purchaser's use of any Product in a manner other than its intended use or in combination with any products not supplied by co-ax;

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and (ii) Purchaser's failure to pay any Taxes payable upon the transactions contemplated by these terms and conditions.

13. Force Majeure.

co-ax shall be excused from liability arising from unusual delays or failure to deliver or fill any purchase order where caused by acts of nature, fires, floods, strikes, work stoppages, civil unrest, riots, wars, acts of terror, accidents, allocations or other controls, or regulations, including export or import regulations of any foreign or U.S. federal, state or local government, shortage of trucks or any other means of transportation, fuels, materials or labor, or any other cause beyond co-ax's reasonable control, whether or not similar in kind or class to those mentioned.

14. Governing Law/Dispute Resolution.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, United States, without regard to principles of conflict of laws. Any and all disputes pertaining to or arising out of these terms and conditions shall be determined exclusively by binding arbitration in Philadelphia, Pennsylvania by the American Arbitration Association ("AAA") in accordance with the commercial arbitration rules of AAA then in effect, by a single arbitrator mutually selected by the parties. If the parties cannot agree upon an arbitrator, an arbitrator will be appointed by AAA. Any award arising out of such arbitration shall be subject to entry as a judgment by any court of competent jurisdiction in the United States. Any action to confirm or vacate such an award must be brought in either the Court of Common Pleas of Philadelphia, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. Purchaser consents to personal jurisdiction and venue in such courts and waives any challenge to personal jurisdiction or venue in such courts. Notwithstanding the forgoing, co-ax has the right to file a claim of action to enforce its rights hereunder, including without limitation actions for non-payment, in any court of competent jurisdiction within the Commonwealth of Pennsylvania or in the jurisdiction where Purchaser's headquarters are located. In the event of any arbitration, litigation, or other dispute arising as a result of or by reason of these terms and conditions, the prevailing or substantially prevailing party in any such dispute shall be entitled, in addition to any other damages assessed, to its reasonable attorneys' fees and all other costs and expenses incurred in connection with settling or resolving such dispute. The application of the United Nations Convention on the International Sale of Goods is expressly excluded.

15. Miscellaneous.

A waiver by either party hereto of any term or condition hereof shall not be construed as a waiver or modification of any other term or condition hereunder or any other contract between the parties. No rights or remedies are waived or modified by co-ax unless expressly waived in writing by co-ax. If any part of these terms and conditions is held void or unenforceable, such part shall be treated as severable, leaving valid the remainder. co-ax's remedies herein provided shall be cumulative and in addition to any other or further

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remedies provided by law or equity. Purchaser may not assign its rights or obligations hereunder without co-ax's prior written consent. Any purported assignment in contravention of the foregoing shall be void.

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