

→ General terms and conditions (Last updated: 12/2022)

1. Applicable Conditions and Scope of Application.

1.1 Unless otherwise expressly agreed upon in writing by Goetze Valves NA, Inc. ("Goetze"), our products and services are exclusively subject to the following General Terms and Conditions.

1.2 Goetze expressly rejects any different or additional terms or conditions contained in any documents submitted by Buyer. Goetze's provision of credit, acceptance of any purchase order and/or sale of any goods are expressly made conditional on Buyer's assent to these terms and conditions.

2. Advice and Information.

Any advice and information given to our products is based on our experience to date. The data, in particular concerning the possibilities of use of our products, are average data only and do not represent an express or implied warranty of any kind.

3. Conclusion and Content of Contract.

Our offers and quotations are not binding, unless we include a binding term of validity. A valid and binding contract shall be concluded only upon either our written confirmation of the Buyer's order or, where no such confirmation is given, the delivery of the goods. The contents of the contract shall be determined by our written confirmation, in case of delivery without prior confirmation, our delivery note shall be deemed as being such written confirmation. Oral statements are not binding under any circumstances. Goetze reserves the right to correct any typographical, clerical and other errors should they occur, in any invoice, quotation or order confirmation.

4. Express Limited Warranty.

Subject to standard manufacturing variations, Goetze warrants that the goods furnished hereunder shall be free from defects in workmanship and materials from their date of shipment for up to two (2) years after the date of original purchase provided they are not used in any application or manner not specified or recommended by Goetze in their "Instructions for Use" or otherwise misused or abused. Normal wear and tear is not covered under this limited warranty. NO WARRANTY SHALL APPLY TO (I) SHIPPING DAMAGE, (II) DAMAGE CAUSED BY IMPROPER INSTALLATION OR IMPROPER USE, (III) PRODUCT WHICH HAS BEEN MODIFIED OR ALTERED IN ANY WAY, (IV) DAMAGE CAUSED BY SEVERE TEMPERATURES, OR (V) PRODUCT THAT HAS BEEN SUBJECT TO IMPROPER MAINTENANCE, ABUSE, MISUSE, ABNORMAL USAGE, OR ACCIDENT. GOETZE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDES ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATIONS, EXPRESS OR IMPLIED, MADE BY ANY REPRESENTATIVE, AGENT OR EMPLOYEE OF GOETZE WHICH IS NOT SPECIFICALLY SET FORTH HEREIN SHALL BE BINDING UPON GOETZE.

5. Delivery and Passing of Risk.

5.1 All delivery dates are to be regarded as estimates, unless expressly stated in writing in the Delivery Notification. Goetze's performance shall be deemed to be EXW at the point of delivery to carrier at Goetze used facility.

5.2 In case of default or impossibility of performance we are liable for claims for damages exclusively pursuant to the provisions in Clause 9 below.

5.3 In cases of force majeure and in any other case of insufficient performance for which we are not directly responsible, Goetze shall be entitled to extend the delivery period for the duration of the obstruction and for a reasonable period thereafter to reinstate production. If it is foreseeable that the inability to perform will be of a permanent nature, Goetze is entitled to refuse the delivery in whole or in part. In that case the Buyer is not entitled to any damage claims.

5.4 Goetze is entitled to make partial deliveries. The parties' respective legal obligations in regard to delivery and shipment shall be defined in INCOTERMS for the relevant shipping term. All shipments are delivered Ex Works (EXW) Goetze's shipping location to Buyer at such locations as Buyer directs in writing, unless otherwise specified in Goetze's written quotation. Goetze utilizes their own packing lists, bills of lading and forms to prepare materials for shipment. If special or alternate forms are requested or required there may be an additional charge which will be quoted separately. The Buyer is solely responsible for shipment of products purchased hereunder. By placing an order, you authorize us to act on your behalf to engage a common carrier to deliver your order to you unless your preferred carrier is specified at time of order. Standard terms, conditions and freight allowances by carriers shall prevail on all deliveries. Materials in transit are the responsibility of the Buyer and any claims regarding damaged material are exclusively the Buyer's responsibility.

5.5 If delivery upon request is agreed upon, the respective requests must be placed within three (3) months of the conclusion of the contract, unless otherwise agreed upon in writing. In case the Buyer does not request delivery within a specified time, clause 5.6 shall apply accordingly.

5.6 If the Buyer refuses acceptance of the goods or if shipment is delayed for reasons for which the Buyer is responsible, the risk shall pass when Buyer's default in acceptance commences. If shipment is delayed more than thirty (30) days, Goetze will be entitled to invoice in full for any remaining balance of the order, if progress payments were agreed upon, they will become void. Further, any storage costs incurred after the risk has passed shall be payable by Buyer. Goetze is entitled to charge a storage fee of 1% of the value of the stored goods per month after the first thirty (30) days. Monthly storage and corresponding invoices will be issued while the goods remain in storage. In addition, if Buyer fails to accept the goods within a period of ninety (90) days, Goetze is entitled to rescind the contract or claim damages for non-fulfillment.

6. Returned Goods.

Unless otherwise agreed upon, goods may not be returned without Goetze's prior written consent. Goods are only eligible for return within 30 days of receipt, if they are damaged or defective.

7. Prices; Payments; Packaging.

7.1 Our prices are current net prices listed in U.S. Dollars and include standard packaging in a manner to prevent damage through normal handling by the shipping method used. Prices and payment terms herein are subject to change or correction without notice. Customer should contact Goetze for current pricing. Special packaging, if required or requested, will be quoted as a separate item. This will be added to the prices at the rate in force at the time of supply. 7.2 Prices quoted do not include any federal, state, or local sales, use, occupation and/or excise taxes, VAT taxes, custom or duties. Buyer will be liable for any such taxes, unless statement of exemption is provided. In the event Seller is required to prepay any such tax, Buyer shall reimburse Seller.

7.3 Any shipping expenses shall be borne by the Buyer, unless otherwise agreed upon in writing, at the freight rates, customs tariffs and any further duties applicable at the time of delivery.

7.4 The Buyer is not entitled to make any deductions from amounts due to Goetze due to any counterclaims or to exercise a right of retention, unless the counterclaims or the right of retention have been acknowledged by Goetze in writing or declared valid with final effect in a judicial proceeding.

7.5 Payment. For customers with established credit as confirmed in writing by Goetze, payment of the total purchase price is due no later than either 14 days net from the date of the Delivery Notification.

7.6 If the Buyer fails to make any payment when due, interest shall accrue on all sums due at the lesser of 1.5% per month or the maximum interest allowed under applicable law.

7.7 All amounts payable to Goetze become due immediately if the Buyer does not comply with contractual obligations regardless of the term of any bill of exchange Goetze may have accepted as conditional payment. In the event of default, bill of exchange protest or suspension of payments, Goetze is entitled to demand immediate payment of all Goetze's claims, including claims of circulating bills of exchange, regardless of any due dates agreed upon. This shall also apply in the event that circumstances become known to Goetze which in Goetze's opinion make the creditworthiness of Buyer doubtful, even if these circumstances have existed at the time the order was placed but were not known to Goetze at the time. The acceptance of Products by Buyer shall constitute an express representation that Buyer is not then insolvent within the meaning or Title 11, United States Code or any similar federal or state law. Notwithstanding any other rights, Goetze shall be entitled in all above-mentioned cases to make outstanding deliveries against advance payment or security only, and, if no advance payment is made or security granted within a one (1) week period, to rescind the contract without fixing any further time period for compliance. In addition to the foregoing, Goetze shall be entitled to reasonable attorneys' fees incurred in connection with the enforcement of its rights hereunder.

7.8 The Buyer is not entitled to assign any claims to third parties arising out of or in connection with this contract without Goetze's prior written consent.

7.9 All taxes of any kind levied by any federal, state, municipal or other governmental authority, which tax Goetze is required to collect of pay with respect to the production, sale, or shipment of goods sold to Buyer shall be the responsibility of Buyer. Buyer agrees to pay all such taxes and further agrees to reimburse and indemnify Goetze for any such payments made by Goetze.

8. Purchase Money Security Interest.

8.1 Buyer hereby grants Goetze a purchase-money security interest under § 36-9-107 of the South Carolina UCC (or any other corresponding law) in the goods purchased from Goetze (the "Collateral"). Buyer hereby irrevocably authorizes Goetze to file UCC-1 financing statements to perfect the security interest granted herein and any extensions or amendments thereto.

8.2 The Buyer shall hold the Collateral in safe custody. Goetze shall have the right at any time after reasonable notice to inspect the Collateral for so long as any balance of the purchase price remains outstanding. The Buyer shall notify Goetze immediately of any seizure or other interference of third parties in respect to Goetze's rights in the Collateral and will provide Goetze with all documents and information necessary to oppose such interference by all legal means.

8.3 If the Buyer does not fulfill its obligations under this or any other contract entered into with Goetze or if, in Goetze's good faith opinion, Buyer's credit becomes impaired, Goetze may suspend performance until such time as Goetze has received full payment for any goods already delivered or in process and is satisfied (in its sole discretion) as to Buyer's credit for future deliveries. If Goetze suspends performance and later proceeds with such order, Goetze shall be entitled to such extension of time for performance as is necessitated by the suspension.

Goetze shall also have the right to rescind the contract. In such case, Buyer upon receipt of written notice from Goetze shall surrender the Collateral and Buyer hereby authorizes Goetze to enter the premises of Buyer to re-take possession of the Collateral at the expense of Buyer and to sell it by private sale or public auction at the highest price possible, notwithstanding the Buyer's financial obligations and other duties; after deduction of the costs of such sale the proceeds thereof shall be used to reduce the Buyer's debt; any remaining surplus shall be made available to the Buyer.

8.4 Notwithstanding anything to the contrary herein, title to and right to possession of the goods shall remain with Goetze and Goetze shall retain a security interest in the goods and any proceeds of the Buyer's sale of the goods in the ordinary course of Buyer's business until any and all payments due from Buyer to Goetze pursuant to the contract shall have been made.

9. Remedy for Breach of Warranty; Limitation of Liability.

9.1 The Buyer shall examine the goods immediately upon receipt at the place of destination, also if models were delivered in advance. The goods are to be particularly examined with respect to their external quality. The goods shall be deemed to have been accepted without any defects, unless the Buyer notifies Goetze of any defect within three (3) days after receipt of the goods at the place of destination or, in case of hidden defects, within ten (10) days after the defect was discovered or should have been discovered. The notification must be made in writing (mail, facsimile or e-mail) and have to specify the defect. All such notifications of defects of goods must be addressed to Goetze at this address: 9499 Old Bailes Road, STE 216, Fort Mill, SC 29707.

9.2 Buyer has affirmative obligation to notify the freight forwarder of any goods damaged in transit.

9.3 No claim for damages for goods that do not conform to specifications will be allowed unless Goetze is given immediate written notice after delivery of goods to the first destination to which they are shipped and allowed an opportunity to inspect them. Goods for which damages are claimed shall not be returned, repaired, or discarded without Goetze's express written consent. EXCEPT FOR ANY CLAIMS ARISING FROM DEATH, INJURY OR DAMAGE CAUSED BY GOETZE'S NEGLIGENCE, BUYER'S EXCLUSIVE REMEDY AGAINST GOETZE, AND GOETZE'S SOLE OBLIGATION, FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO GOETZE'S REPLACING GOODS THAT DO NOT CONFORM TO SPECIFICATIONS OR, AT GOETZE'S OPTION, REFUNDING THE PURCHASE PRICE. IN NO EVENT SHALL GOETZE HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE GOODS SOLD HEREUNDER, NOR SHALL GOETZE HAVE ANY LIABILITY FOR INCIDENTAL, COMPENSATORY, PUNITIVE, CONSEQUENTIAL, INDIRECT, SPECIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER.

9.4 Warranty claims shall become time-barred one (1) year after delivery of the goods unless Buyer can prove Goetze's fraud or willful misconduct. Any unauthorized use of, or changes to, Goetze's products without prior written consent of Goetze shall void any warranty applicable thereto and Goetze shall have no liability to Buyer and Buyer shall indemnify Goetze from any damages resulting therefrom.

10. Indemnity.

Buyer agrees to indemnify, hold harmless and defend Goetze and Goetze's directors, officers, employees and agents, and the directors, officers, employees and agents of any Goetze's parent, subsidiary or related company (the "Goetze Indemnities") from and against any and all claims, suits, losses, damages, costs, fees and expenses arising out of the death or injury to person or damage to property resulting from the sale, marketing or use of the Product by Buyer, except to the extent that such claims, suits, losses, damages, costs, fees or expenses arise or result from any negligent or wrongful act or omission of Goetze.

11. Force Majeure.

Goetze will not be responsible for delay in delivery or failure to fill orders or other default or damage where such has been caused by an act of God, war, major disaster, terrorism, third-party criminal acts, insurrection, riot, flood, earthquake, fire, strike, lockout or other labor disturbance, delay by carriers, incorrect, delayed or non-delivery by suppliers, shortage of fuel, power, materials or supplies, operation of statutes, laws, rules or rulings of any court or government, demand for goods exceeding Goetze's available supply or manufacturing capacity or any other cause beyond Goetze's direct control.

12. Applicable Law; Jurisdiction.

12.1 The relations between Goetze and Buyer are governed exclusively by the laws of the State of South Carolina, without regard to its choice of law principles. Neither the United Nations Treaty on the International Sale of Goods (CISG) nor any other existing or future bilateral or international treaties shall be applicable to this contract.

12.2 Place of jurisdiction for all disputes arising out of or in connection with the contract shall only be proper in a state or federal court situated in Fort Mill, South Carolina, and Buyer irrevocably consents to the exclusive personal jurisdiction of such courts. Buyer waives any objection based on forum non conveniens or any objection to venue of any such action.

12.3 Arbitration. Any dispute between the parties regarding the meaning of the terms of the contract or the parties' performance under the contract will be submitted to binding arbitration before the American Arbitration Association or some other arbitration provider mutually agreed upon by the parties. Any arbitration between the parties will be conducted pursuant to expedited procedures for the resolution of commercial disputes utilized by the American Arbitration Association or by the mutually agreed upon arbitration provider, unless the amount in controversy in the arbitration is in excess of \$250,000.00 USD, in which case the normal commercial dispute resolution proceedings of the American Arbitration Association or the mutually agreed upon arbitration provider will be used. Either party may request arbitration by giving written notice by certified mail or overnight mail to the other party, with this written notice setting forth the nature of the dispute and the amount in controversy. The parties will then have five (5) business days from the receipt of this notice to agree upon an arbitration provider other than the American Arbitration Association. If no agreement regarding another arbitration provider is reached within this period, the party requesting arbitration will then submit a demand for arbitration to the other party and the American Arbitration Association. This arbitration provision does not prevent either party from seeking injunctive relief as appropriate in a court of competent jurisdiction with regard to the other party's breach of the contract. Once injunctive relief is granted or denied by a court of competent jurisdiction, the underlying dispute between the parties will be submitted to arbitration consistent with the procedures of this paragraph. The parties agree that the award of the arbitrator(s) shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or accountings presented or pled to the arbitrator(s); that it shall be made and shall be promptly payable in U.S. Dollars free of any tax, deduction or offset; and that any costs, fees or taxes incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the party resisting such enforcement. The award shall include interest from the date of any damages incurred for breach or other violation of the contract, and from the date of the award until paid in full, accrued at a rate of one and one-half percent (1.5%) per month. Each party shall bear its own arbitration costs and expenses. Nothing herein contained shall be deemed to give the arbitrator(s) any authority, power or right to alter, change, amend, modify, add to or subtract from any of the provisions of the contract including, without limitation, Section 9 of these Terms and Conditions.

13. Intellectual Property Rights.

13.1 Buyer acknowledges that the following products and names are trademarks of Goetze and Buyer acknowledges that it has no rights in or to such trademarks and all goodwill associated therewith inure solely to the benefit of Goetze.

13.2 Any document and object, such as drawings, proposals, samples or models, made available to the Buyer in connection with our offers, remain Goetze's property and are considered intellectual property and trade secrets of Goetze. We are the holder of copyrights and related protective rights under domestic and international copyright laws regarding these documents and objects. The Buyer is not entitled to disclose to third parties the documents, information or intellectual property made available without Goetze's prior written consent and any third party to whom such documents, information or intellectual property are lawfully disclosed hereunder shall be bound by the same provisions restricting transfer as Buyer.

13.3 Confidentiality. Buyer agrees that all specifications, data and other technical information furnished by Goetze to Buyer constitute the property of Goetze, are furnished solely for the purpose of Goetze's performance hereunder, and may not be copied or made accessible to third parties without Goetze's prior written consent. Buyer shall promptly return such specifications, data and other technical information and all copies thereof to Goetze upon Goetze's request. Such request may be made at any time prior to or after delivery of goods. The obligations of Buyer set forth shall also survive cancellation or completion of the contract.

14. Concluding Provisions.

14.1 Amendments. Any alterations and amendments to the contract, including this clause, must be made in writing and signed by both parties in order to be valid. This shall also apply to any supplementary and additional agreements.

14.2 Severability. If a provision herein is or becomes partially or completely invalid, the invalidity of this provision shall not affect the validity of the remaining provisions of this contract.

14.3 Compliance with Laws. Buyer agrees to comply with all laws and regulations applicable to the purchase, distribution, transport, use, storage, sale, lease and/or disposal of the products, including, without limitation, to the extent applicable, International Traffic in Arms, Regulations, the U.S. Export Administrative Act and respective regulations thereunder.

14.4 Survival of Obligations. Any termination of the contract shall not affect any monies owing or obligations incurred by either of the Parties prior to the effective date of the termination. The representations and warranties set forth in these Terms and Conditions of Sale shall survive expiration or termination for any reason of the contract.