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## **FSK & ROBVALVE**

General terms and conditions of sale

Applicable as of September 3<sup>rd</sup> 2021

### **1. Scope of application**

**1.1.** These General Terms and Conditions of Sale (hereinafter the "GTCS") apply to all sales of products and provision of services between FSK & ROBVALVE (hereinafter the "Seller" or "FSK & ROBVALVE") and the Client (hereinafter the "Client"), unless the parties have expressly agreed otherwise.

**1.2.** The General Terms and Conditions of Sale constitute the basis of the commercial negotiation and shall be communicated to any Client who requests them. Any order sent to the Seller by a Client shall imply unconditional acceptance of our GTCS, which shall prevail over any other conditions not expressly accepted by the Client and the Seller.

**1.3.** The GTCS as well as any specific and/or technical conditions of the order expressly accepted in writing by the parties constitute the entire contract between the parties.

**1.4.** The Seller shall be entitled to subcontract all or part of the studies, supplies and services provided under the contract, as well as to replace the supplies and services provided under the contract by supplies and services with equivalent or superior specifications, provided that this does not result in an increase in price or a deterioration in quality for the Client.

**1.5** The Client acknowledges being given a copy of the GTCS, which it read and that expressly accepts them in accordance with the contract, including the article concerning the retention of title.

### **2. The orders**

**2.1.** Each order shall only be final, and the sale deemed concluded after express written acceptance by Seller. Any verbal or telephone order must be confirmed in writing by the Client.

**2.2.** No accepted order may be modified (quantity, DN, technical characteristics), terminated or cancelled without the prior written consent of Seller. In any event, any modification or cancellation of the order, shall incur costs which shall be charged to the Client in accordance with the breakdown set forth below. When the modification or cancellation takes place within the periods defined below after the validation of the order:

- During the first week: no fees applied
- From 1 week + 1 day to 3 weeks 25%.
- From 3 weeks + 1 day to 4 weeks 40%.
- From 4 weeks + 1 day to 8 weeks 80%.
- From 8 weeks + 1 day to 10 weeks 60%.
- From 10 weeks + 1 day to 18 weeks 80%.
- From 18 weeks + 1 day to 24 weeks 100%.

The fee will be calculated as a percentage, according to the method above mentioned, applied to the value of the modified or cancelled order. The costs resulting from such termination shall be borne and paid by the Client.

**2.3** Any modification of the order, in particular by adding additional and/or complementary products or services, shall be accepted in the form of a written amendment signed by the Seller and the Client. This amendment shall be subject to the GTCS in the same way as the modified contract.

### **3. Products - Services**



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**3.1.** The Seller shall ensure that the products are in conformity with applicable regulations, and in particular shall guarantee that all its products have the CE mark and comply with the provisions of Article L. 557-1 et seq. of the Environmental Code resulting from the transposition into French law of Directive No. 2014/68/EU, the so-called Pressure Equipment Directive. In the event that the product covered by the contract is integrated into another product (new product), the Client shall be personally responsible for ensuring that the new product complies with the regulations in force. The Client shall inform the Seller in advance if the product covered by the contract is to be integrated into a new product governed by another European regulation and/or subject to CE marking.

**3.2.** The Seller shall make available to the Client on its website all assembly and safety instructions, maintenance manuals as well as the declarations of conformity of the products required by law ([www.fsk-robvalve.com](http://www.fsk-robvalve.com)).

**3.3** In the absence of specific requests from the Client, expressly accepted by the Seller, the Seller is free to decide whether or not the product requires packaging and, if so, the type of packaging. Unless otherwise agreed in writing by the Seller, packaging shall not be taken back. If the Client chooses the packaging or the packaging company, the Seller shall not be liable for any apparent defects (damage, shortages, etc.) caused by defective or unsuitable packaging.

**3.4.** The Seller may also provide maintenance and repair services for the products sold (e.g., installation of products at the Client's premises, repair and replacement of parts and/or products). These services shall be invoiced in addition to the price of the products.

**3.5.** Any other service not described in the order accepted by the Seller shall be quoted and invoiced separately.

#### **4. Price**

**4.1.** Unless otherwise agreed by the parties, the prices invoiced are those in effect on the date of the order. The prices are established excluding taxes, customs, transport, insurance and packaging costs and are invoiced according to the conditions of the contract. They are provided in euros.

**4.2.** If the Client submits a request to the Seller requiring the conduct of preliminary studies and should the relating order not go through, these shall be invoiced to the Client individually. A specific estimate shall be edited for the price of the preliminary studies which must be accepted by the Client before the preliminary studies are begun.

**4.3.** A minimum order preparation fee will be applied: 20 € for all orders under 90€ HT.

#### **5. Invoicing and payment terms**

**5.1.** Any first order from a new Client will be subject to full payment at the time of validation of the order.

For any order of a Client already in account :

- for an amount below 10.000 €, the terms of payment will be defined by the Parties at the time of the order
- for an amount beyond €10,000 exclusive of tax, the Client undertakes to pay 30% of the total amount at the time of order, 20% during the manufacturing process and the balance at the time of delivery of the order, under the conditions specified in each invoice.

**5.2.** As part of the dematerialization policy, invoices are issued in PDF format and sent by email. Invoices include all taxes in force at the time of invoicing. The Client may benefit from the tax-suspended sales regime subject to providing all supporting documents at the time of the order, i.e. before invoicing.

**5.3.** In accordance with Article L.441-10 of the French Commercial Code, payments shall be made, unless otherwise expressly agreed on the 30th day following the date of the invoice. Advance payments shall however be subject to cash payment.

**5.4.** When the Seller notes a deterioration in the Client's situation, demonstrated by any means, in particular by a significant delay in payment or repeated delays, or when the financial situation differs significantly from the data made available, the ongoing delivery of orders will only take place in return for their immediate payment.

#### **6. Payment conditions**



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**6.1.** Payments shall be made by bank transfer to the Seller's bank accounts.

**6.2.** Advance payments shall be made without discount, unless otherwise agreed.

**6.3.** Any delay in payment shall automatically entail, as of the day following the payment date indicated on each tax-inclusive invoice and until full payment of the latter, the application of late payment interest at the legal rate corresponding to the interest rate applied by the European Central Bank to its most recent refinancing operation plus 10 (ten) percentage points. Any delay in payment will also automatically result in the application of a fixed recovery fee of 40 euros per invoice. When the collection costs incurred by the Seller are higher than the amount of this fixed fee, the Seller shall also be entitled to request additional compensation, from Euro to Euro, upon justification.

**6.4.** Any delay may also result in the forfeiture of the contractual payment term, all of the sums due by the Client must be immediately paid.

**6.5.** Any claim on an invoice must be made within ten (10) days of its receipt. In the event of disagreement as to whether part of an invoice is due, the Client undertakes to pay the undisputed part in accordance with the above conditions. In the event that no payment is made within eight (8) days following the date of dispatch of the formal notice requiring payment of the invoice in question by registered letter, the Vendor shall be entitled to terminate the contract. He will be able to obtain compensation for the entire damage suffered.

## **7. Retention of Title**

**7.2.** Failure to pay by any due date may result in the reclamation of the goods. Nevertheless, as from the delivery of the products to the Client, the risks and custody of the products are transferred to the latter.

**7.1** ALL SALES OF THE SELLER ARE CONCLUDED WITH RETENTION OF TITLE. CONSEQUENTLY, THE TRANSFER OF THE LEGAL OWNERSHIP OF THE SOLD PRODUCTS IS SUSPENDED UNTIL THE INTEGRAL PAYMENT OF THE PRICE, EXPENSES AND INCIDENTALS. THIS RETENTION OF TITLE IS EXPRESSLY ACCEPTED BY THE CLIENT IN THE SAME WAY AS ALL THE OTHER CLAUSES AND CONDITIONS OF THE SALE AND MAY NOT IN ANY WAY BE THE CAUSE OF A CANCELLATION OF THE ORDER BY THE CLIENT AND WILL BE FULLY EFFECTIVE IN THE EVENT OF RECEIVERSHIP OR LIQUIDATION, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLES L. 624-16 AND L. 624-18 OF THE FRENCH COMMERCIAL CODE.

**7.2.** These provisions do not prevent the transfer to the Client, upon delivery, of the risks of loss and deterioration of the products sold as well as the damage they may cause.

The Client shall - with respect to products for which payment has not been made in full - ensure at all times that they are identified as the property of the Seller and cannot be confused with or claimed by third parties (the Client shall oppose such a claim and notify the Seller without delay in such circumstances).

The Client shall not pledge or transfer in any form whatsoever, as a guarantee or a collateral, the ownership of the products. The Client shall also indicate in writing - in the event of resale of the product subject to the retention of title clause, to a third-party purchaser - that the said product is subject to a retention of title clause.

The Client undertakes, in the event of resale of the products covered by the retention of title clause, to account for the resale price separately and, more generally, to take all steps to establish the reconciliation between the sum thus received from the third-party purchaser and the sale price still owed to the Seller, so as to enable the Seller to obtain payment of said sale price.

In the event of the effective resale of the products by the Client, although he has not yet become the owner, to a third party, the Client alone shall assume full responsibility and, in the event of loss or damage for any reason whatsoever, shall pay the agreed price in full. The Client shall be deemed to have legal custody and control of the products which are not its property, regardless of any clauses subscribed to by it with respect to third parties



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concerning said products. In addition, the Vendor may require the defaulting Client to provide all useful information concerning the sale of the products to a third party. In this case, the Seller may claim from the sub-purchaser the price or the part of the price that has not been paid, nor settled in value, nor compensated between the debtor and the Client at the date of the judgment opening the legal proceedings.

**7.3.** The Seller's repossession of the returned products imposes on the Client the obligation to compensate for the loss resulting from the depreciation and, in any event, the unavailability of the goods concerned. Consequently, the Seller may request, if it sees fit, as a penalty clause, an indemnity of 10% of the agreed price, per month of detention of the repossessed products.

## **8. Conditions of delivery or handover of the products**

**8.1.** The delivery times and/or the availability of the products are given as an indication. Considering the specificities of the order or the quantity of products ordered, the Seller reserves the right to make partial deliveries or handovers of products.

**8.2.** If no deadline has been agreed between the Parties, the delivery or handover of the products shall take place according to the production possibilities. The delivery or handover period shall begin on the day on which the Seller confirms that it has all the elements necessary to initiate production (e.g. technical information, down payment, necessary regulatory approvals).

**8.3.** Any delay in the delivery or handing over of the products shall not lead to the cancellation of the order or the termination, even partial, of the contract.

**8.4.** The parties may jointly agree on a penalty applicable per week of delay starting from the second week of delay, which may not exceed 3%, exclusive of tax, of the price of the products affected by the delay. In any event, a penalty shall only be applicable when the delay is solely due to the fault of the Seller. The Seller shall not be subject to any penalty in the event of non-compliance with the terms of payment by the Client and in the event of force majeure or events such as war, revolution, epidemic, strike, lockout, requisition, fire, flood, attack, natural disaster and in general any cause beyond its control.

**8.5.** Any penalty agreed upon and applied shall be in full discharge of any liability and shall be exclusive of any other penalty or compensation.

**8.6.** Deliveries are made EX WORKS (Incoterms 2020), unless otherwise agreed by the parties.

**8.7.** The transfer of risks relating to the products shall be made to the benefit of the Client on the day the products are handed over to the Client or to any person designated by him. In the event that the Client does not take delivery of the product on the date provided for in the contract, the Client shall nevertheless remain obligated not to delay the due date normally provided for the payments related to the delivery. No change in the warranty period shall result from this.

**8.8.** Unless otherwise agreed by the parties, all applicable handling, transportation, customs and insurance shall be borne by Client.

**8.9.** The product shall be entrusted to a carrier designated by the Client or, in the absence of a designation by the Client, to any carrier capable of ensuring transportation under conditions consistent with the nature of the product, at the exclusive expense of the Client. The Seller remains a third party to the transport contract and cannot be held responsible for any deterioration of the products resulting from the transport. Whatever the conditions of delivery, the product travels at the risk of the Client. In the event of damage or loss resulting from transport, the Client shall contact the carrier for any claim and inform the Seller of such claim.

## **9. Reception and commissioning of products**

**9.1.** Unless otherwise agreed by the parties, the Client shall be responsible for receiving and checking the products. On the day of delivery of the products to the Client, it shall be the Client's responsibility to carry out the appropriate



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checks to ensure the conformity of the product. If the Client considers that the product is not in conformity, it shall notify the Seller under the conditions specified in Article 11.

**9.2.** The Client may request the Seller to conduct additional tests on the products prior to their delivery. These operations shall be subject to additional invoicing agreed upon by the parties. If the Client is notified of the date of these operations and does not attend, a report shall be sent to the Client and the acceptance shall be deemed to have taken place.

**9.3.** Unless otherwise agreed, the Client shall be solely responsible for installing the product. In the event that the installation is conducted by the Seller, the Client shall be obligated to provide all technical and material assistance necessary for the proper performance of the operation. In this situation, an agreement specifying the reciprocal obligations of the Seller and the Client shall be signed by both parties.

**9.4.** The use, installation and maintenance of Seller's products shall be in accordance with the recommendations in the operating instructions included with the product or available from Seller. Seller shall not be liable for any defects or malfunctions resulting from Client's failure to follow its instructions.

## **10. Product take-back**

**10.1.** As a matter of principle, the Seller does not take back products. Products manufactured in accordance with the Client's specific requirements cannot be taken back.

By way of derogation, the Seller may accept the return of products under specific circumstances. In this case, the return of products shall be subject to the express prior written acceptance of the Seller, which shall specify the specific conditions of such return. For any request to take back products, the Client must first contact the Seller's sales department. The fact that the Seller has agreed to take back a given product does not entitle the Client to have other products be taken back, even identical products.

**10.2.** No return of products shall take place if it is not made by the Client within three (3) months from the date of delivery of the products in question. If accepted by the Seller, the repurchasing price will amount to the invoice price less 30%, plus any repair costs. The material must be returned to the Seller in its original packaging and transportation costs must be borne by the Client.

## **11. Product conformity**

**11.1.** The Client shall be deprived of the right to rely on a lack of conformity if it does not notify the Seller of a written claim, specifying the nature of the defect observed and including the justifications as to the reality of the defects or anomalies observed, within ten (10) days from the delivery or handover of the product to the Client.

**11.2.** By the use of the product the Client Is deemed to waive any claim for its non-conformity, excluding hidden defects.

**11.3** If the Client notifies Seller of the lack of conformity in a timely and proper manner, Seller may inspect the product at the Client's premises or at Seller's facility before accepting or rejecting the claim.

**11.4** In the event of non-conformity of the product duly noted by the Seller, the non-conforming part (or the product itself) will be replaced free of charge by the Seller. In all cases, any return of a product must be accepted in writing by the Seller beforehand and shall be made at the Client's expense and risk.

## **12. Contractual product warranty**

**12.1.** Seller's warranty is limited solely to the physical and mechanical characteristics of the products, even when Seller is responsible for the design and execution of orders placed with it. The warranty on items not manufactured by Seller is limited to that given by its supplier. Seller's warranty shall commence upon delivery of the products and shall not exceed twelve (12) months, or eighteen (18) months in the case of delivery Ex-Works. The warranty is limited to the supplier's standard twelve (12) month warranty for elastomeric materials.



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**12.2.** In order to be covered by this warranty, the defect in the product must be reported to Seller within four (4) calendar days of its discovery in writing and including all evidence to establish the defect.

**12.3.** The warranty covers any hidden defect in design, manufacture or materials used. Nevertheless, and provided that the Client notifies the Seller of the defect within the prescribed time limit, it shall consist solely, at the Seller's option, of the repair or replacement of the products recognized as defective by the Seller in its workshops. This warranty does not cover normal wear and tear of parts and products.

**12.4.** The warranty will not be valid if the Client has not stored the products before use in a covered, clean and dry room, in the original packaging. The products must not be stored on the floor and must be kept at a temperature between 5°C and 30°C.

**12.5.** The Seller's warranty shall not apply in the event of installation by the Client that does not comply with the rules of the trade or with the technical specifications, in the event of defects due to deterioration or accident resulting from negligence, in the event of failure to maintain and supervise the product by the Client, in the event of changes in the operating conditions of the product that are not provided for or specified by the Seller in its instructions, use of the product not in accordance with the Seller's intended purpose and instructions, elements which, by the nature of their materials or function, are subject to wear and tear, as well as defects or deterioration caused by corrosion, erosion or chemical attack, or in the event that the invoice for the product has not been paid by the Client.

**12.6.** The Seller's warranty shall cease in the event of repair or disassembly operations on the products carried out by persons not authorized by the Seller or in the event of storage of the products not in accordance with the Seller's instructions.

**12.7.** This warranty does not cover direct or indirect damage resulting from the use or inability to use the product sold, damage to persons or property, or the cost of any business interruption due to a defective product.

**12.8.** The Seller shall be solely responsible for the conduct of warranty operations and reserves the right to modify all or part of the product for repair. If the repairs carried out by the Seller exceed the warranty period, the product may be replaced by an identical or equivalent product.

**12.9.** In any event, Seller's warranty shall be equivalent to the coverage provided by its liability insurance policy.

### **13. Liability and insurance**

**13.1.** The Seller shall provide the product or service requested by the Client in accordance with the rules of the profession.

**13.2** In the event of total or partial non-performance by the Seller of its obligations, the latter shall only be liable for direct material damage caused to the Client by its own fault, to the exclusion of any immaterial or indirect damage such as commercial loss, operating loss, loss of contracts, loss of opportunity or loss of profit.

**13.3.** The Seller shall also not be liable for the total or partial non-performance of its obligations when such non-performance results from a case of force majeure as described in Article 14 below.

**13.3.** The civil liability of the Seller, for all causes except personal injury and gross negligence, is limited to a sum not exceeding the amount of the invoice received on the day of delivery or handover of the products.

### **14. Force Majeure - Unforeseeability**

#### **14.1 Force Majeure**

The Seller reserves the right to suspend delivery of the products or to cancel the sale, in whole or in part, in the event of force majeure defined as any event beyond its control, which could not be foreseen and the effects of which could not be avoided by appropriate measures, likely to stop, reduce or delay the manufacture of the products or the transport of the products or to prevent the normal execution of the sale. In particular, the following shall be considered as cases of force majeure: war, riot, fire, strikes, accidents, pandemic or epidemic as well as any legal



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or regulatory measures taken by the public authorities to prevent the spread of the pandemic or epidemic, the impossibility of being supplied.

In the event of the occurrence of a force majeure event, the party affected by the event shall notify the other Party in writing within eight (8) days of the occurrence of the event and of the partial or total suspension of the obligations in progress. Upon notification of the occurrence of a force majeure event, relations between the Seller and the Client shall be suspended for the duration of the force majeure event.

If the force majeure event continues beyond thirty (30) consecutive days, the more diligent party may notify the other party of the unilateral termination of the contract.

#### 14.2 Unforeseeability

In the event of a change in circumstances that could not be foreseen at the time of conclusion of the contract and that would make the manufacture or delivery of the products excessively expensive, the Supplier may request a renegotiation of the terms and conditions of the sale of the products or the provision of the service. The execution of the sale of products or the provision of services shall be suspended during such renegotiation. If no agreement is reached within two weeks, the Seller may terminate the sale or the service without penalty.

### 15. Shortage management

In the event of a shortage of raw materials, components or difficulties in the supply of raw materials, components or finished products resulting from the occurrence of any event having a significant impact on Seller's ability to fulfil orders, Seller may, after informing Client, adjust the quantities to be delivered in accordance with its inventories and the intensity of market demand.

### 16. Resolatory Clause

**16.1.** If the Client fails to make payment within eight (8) days from the date of sending a formal notice by registered letter with acknowledgement of receipt demanding payment, the Seller may terminate the contract and obtain compensation for the damage suffered as a result of the failure or delay in payment.

**16.3.** Termination of the contract, for any reason whatsoever, shall make all the sums owed by Client to Seller immediately payable.

### 17. Intellectual Property

**17.1.** All intellectual property rights and know-how incorporated in the documents transmitted by the Seller to the Client (e.g., studies, plans and documents), the products delivered and the services provided shall remain the exclusive property of the Seller. The Client shall not reproduce or cause to be reproduced, in whole or in part, the trademarks, designs and models or any other intellectual or industrial property rights owned by the Seller. They may not be transmitted, communicated or transferred to third parties without the written authorization of the Seller.

**17.2.** Seller reserves the right to dispose of its know-how and results of its research work conducted for any Client.

### 18. Jurisdiction and applicable law

**18.1.** By express agreement between the parties, the present GTCS and the purchase and sale transactions resulting therefrom are governed by French domestic law. They are written in French. In the event that they are translated into one or more languages, only the French text shall prevail in the event of a dispute.



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**18.2.** All disputes relating to the interpretation, application, fulfilment, resolution or termination of the commercial relations or agreements between the parties, regardless of the place of delivery of the products, fall under the exclusive jurisdiction of the Commercial Court of Paris.