

These terms and conditions (“*Conditions*”) govern all quotations, orders and contracts for the sale of goods and services of SPX to Buyer. These Terms supersede any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in Buyer’s request for quote, purchase order, invoice, order acknowledgement, contract or other similar document.

1. INTERPRETATION

In these Conditions, the following terms shall have the following meanings: *SPX* means the SPX entity accepting the Order; *Buyer* means the person(s) so described in the Order; *Order* means the Buyer’s purchase order; *Contract* means the contract for the sale and purchase of the goods as described in the acceptance of the Order; *Goods* means any goods agreed in the Contract to be bought by the Buyer from SPX.

2. GENERAL

Any quotation or tender made by SPX and any contract for the sale of Goods by SPX shall be governed only by these Conditions to the entire exclusion of all other terms or conditions unless otherwise agreed to in writing by SPX. Unless otherwise stated in writing, quotations and tenders are non-binding and subject to change without notice. Orders, whether based on quotations or tenders or not, shall not be binding on SPX until SPX accepts such Orders and notifies the Buyer in writing of such acceptance. Times quoted for dispatch, delivery or completion shall run from the date of such notification, but not from before final resolution of all technical questions, payment of advance payment or provision of security, if any, and, where required, not before an export license has been obtained. Any variation to these Conditions shall have no effect unless expressly agreed in writing by SPX.

3. SPECIFICATION

The Buyer is responsible for satisfying itself as to the suitability of the Goods for the Buyer’s application. SPX shall not be bound by any statement concerning the scope of supply, performance or characteristics of goods unless expressly incorporated in the Contract, although nothing in these Conditions shall be construed as attempting to limit either party’s liability for fraud or fraudulent misrepresentation. All specifications, drawings and particulars of weights and dimensions and other information relating to the Goods submitted with SPX’s quotation or tender are approximate only. Descriptions and illustrations contained in SPX’s catalogues, price lists and other advertisement material are intended merely to present a general description of the goods described therein and shall not form part of the Contract.

4. BASIS OF PRICE

Except as expressly agreed in writing to the contrary, the quoted price shall be exclusive of any value added tax or similar sales tax, any import tax or other tax payable in the country of the Buyer, and all costs or charges in relation to loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition to the quoted price when it is due to pay for the Goods supplied.

5. TERMS OF PAYMENT

All payments shall be made in the legal currency of the jurisdiction in which SPX’s facility accepting the Order is located to the designated account of SPX, unless the prices in the SPX offer are stated in another currency. All sums due to SPX shall be payable within 30 days of the date of SPX’s invoice and time for payment shall be of the essence. No deduction whether by way of set-off, counterclaim or otherwise, shall be made by the Buyer unless the Buyer has a valid court order which is enforceable in the jurisdiction in which SPX’s facility accepting the Order is located requiring an amount equal to such deduction to be paid by SPX to the Buyer. If prerequisites for a payment (such as delivery, completion or formal acceptance) cannot be satisfied due to a breach of his obligations under the Contract by the Buyer, such payment shall nevertheless become due and payable at the time agreed to and SPX’s further rights to seek damages shall remain unaffected. If any amount due and payable to SPX under the Contract is overdue for reasons for which SPX is not responsible, SPX may, without prejudice to any other right it may have and at its own option, either suspend deliveries or terminate the Contract and in addition charge the Buyer simple interest on amounts overdue at an annual rate of 2% (two per cent) above the 6 months EURIBOR rate from time to time in force during the period that any such amount is overdue (before and after judgement), provided that higher interest may be claimed if so prescribed by applicable law. Where the Goods are to be exported by SPX to the Buyer, unless expressly agreed otherwise in writing the Buyer will prior to dispatch of the Goods supply an irrevocable Letter of Credit issued by a European Bank approved by SPX and having a minimum rating of AA (S&P) or equivalent for the full Contract price. The Letter of Credit will conform to the latest edition of the International Chamber of Commerce’s Uniform Custom and Practice for Documentary Credits (UCP 500).

6. DELIVERY

Unless specified otherwise in the Contract, delivery shall be made Incoterm FCA carrier, SPX’s factory. SPX may deliver the Goods by separate instalments. Unless expressly agreed to the contrary in writing, dates cited for delivery shall be approximate only, and time for delivery shall not be of the essence. If no delivery dates are specified, delivery shall be made within a reasonable time. In any case, delivery shall only be deemed to be delayed following notification by the Buyer in writing after the expiry of the time during which delivery could have been reasonably expected. If, solely due to the fault of SPX, delivery is delayed and the Buyer suffers damage due to this delay, the Buyer shall be entitled to liquidated damages. Unless agreed otherwise, the liquidated damages shall be limited to an amount of 0.5% for each full week of delay, but not exceeding 5% in total, of the value of that part of the delivery that cannot be utilised in time or in accordance with the Contract due to the delay. Such liquidated damages, or, where applicable, any other liquidated damages or penalty for delay that may have been agreed between the Buyer and SPX, shall be the Buyers sole remedy and SPX’s sole liability in case of delay. For the avoidance of doubt, if the Contract is subject to the laws of the Netherlands, “liquidated damages” shall mean a contractual penalty which is meant to be a compensation for damages. In addition to any other requirements under applicable law, the Buyer can only terminate the Contract on the grounds of overdue delivery if SPX continues to default in performing the Contract in whole or in part after a reasonable period (of at least 60 days) following notification of such period by the Buyer in writing after the expiry of the delivery time as per the preceding clause. If the Buyer does not take delivery of Goods within 7 days of notification that they are ready for delivery, or SPX is unable to deliver Goods because the Buyer has not provided appropriate instructions, licences, authorisations or other documents, SPX shall be entitled on behalf of the Buyer to put the goods into storage at the Buyer’s expense, and risk in the Goods, if it has not passed earlier, shall pass to the Buyer. Delivery to storage shall constitute delivery to the Buyer and SPX shall become entitled to payment upon such delivery. All rights and claims of SPX resulting from a delay by the Buyer shall remain unaffected.

7. TRANSFER OF TITLE AND RISK

Full legal title to and beneficial ownership in any consignment of Goods (excluding software) shall pass to the Buyer upon receipt by SPX of all sums due from the Buyer in respect of the Goods. All risks of loss or damage to the Goods shall nevertheless pass to the Buyer on delivery and the Buyer shall maintain the Goods in satisfactory condition and keep them adequately insured on SPX’s behalf for their full price and on request provide evidence of such insurance. Until the passing of title in the Goods to the Buyer, the Buyer shall hold the Goods as bailee for SPX and clearly identify them as belonging to SPX. SPX may at any time until the passing of title in the Goods to the Buyer require the return of the Goods. If this requirement is not complied within a period of 8 days SPX may (without prejudice to its other rights and remedies) repossess the Goods and remove, use or dispose of them, and for this purpose may enter the premises where they are and sever them from any other property to which they may be attached without liability for any resulting damage, except where such damage arises directly as a result of negligence on the part of SPX. The Buyer shall maintain accurate records to ensure the continued traceability of any Goods purchased from SPX under these Conditions and shall provide reasonable assistance to SPX in the event that any Goods it has purchased are affected by a product recall or corrective action procedure implemented by SPX.

8. SELLER’S WARRANTY

SPX warrants that the Goods supplied shall, under proper use, be free from defects in design, material and workmanship and conform to the specification in the Contract for a period of 12 months from delivery. “Proper use” means storage, installation, commissioning operation and maintenance in accordance with SPX’s specifications and good industry practice. SPX’s obligation under this warranty shall be limited to making good by repair or replacement at SPX’s option any defect in the Goods which appears before the expiration of the period of 12 months after delivery or, at SPX’s option, reimbursing the price received by SPX for the Goods. Where SPX opts to repair the Goods the Buyer shall return the Goods to be repaired to SPX’s premises at its own cost. In respect of items which have been repaired or replaced by SPX hereunder, SPX shall guarantee such items up to the end of the original warranty period. Replaced items shall become the property of SPX. SPX’s obligation is subject to SPX being given notice by the Buyer of the defect within 7 days of the date of delivery, or when the defect was not apparent on reasonable inspection, within a reasonable time after the discovery of the defect. SPX shall have no liability for the costs of dismantling, transportation, re-assembly, and re-testing of any Goods affected under this warranty. SPX’s obligation shall not extend to failure caused by wear and tear, accidents, misuse, neglect, or repairs or modifications to the Goods which have been made without SPX’s approval. THIS WARRANTY IS IN PLACE OF AND EXCLUDES TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, UNDER COMMON AND/OR

OTHERWISE APPLICABLE LAW, EXPRESS OR IMPLIED. THE SELLER'S LIABILITIES AND THE BUYER'S REMEDIES IN RESPECT OF DEFECTS IN THE GOODS AND ANY DAMAGE TO THE GOODS RESULTING THEREFROM WHETHER ARISING FROM BREACH OF CONTRACT, STATUTORY DUTY, WARRANTY, NEGLIGENCE OR OTHERWISE ARE SOLELY AND EXCLUSIVELY AS STATED IN THIS SELLER'S WARRANTY CLAUSE, AND THE SELLER SHALL HAVE NO LIABILITY OF ANY KIND FOR ANY SUCH DEFECTS OR DAMAGES WHICH APPEAR AFTER THE EXPIRY OF THE WARRANTY PERIOD DESCRIBED ABOVE. If a Buyer notifies a defect, even though there is no actual defect, the Buyer will reimburse SPX all reasonable costs which SPX has incurred in connection with the making good of the alleged defect, provided SPX relied in good faith on the notification by the Buyer.

9. PROPRIETARY INFORMATION

SPX shall retain title to all engineering and production prints, drawings, technical data, and other intellectual property, information and documents that relate to the goods or services sold to Buyer. All such information and documents disclosed or delivered by SPX to Buyer: (i) are to be deemed proprietary to SPX; (ii) shall not be disclosed to any third party for any reason without the express prior written consent of SPX; and (iii) shall be used by Buyer solely for the purpose of inspection, installation, and maintenance of the goods and services sold to Buyer under these Terms, and not for any other purpose.

10. INTELLECTUAL PROPERTY RIGHT INFRINGEMENT

In the event of a successful infringement claim by a third party, at SPX's option, SPX shall either (i) modify the goods sold hereunder so that they perform comparable functions without infringement, (ii) obtain a royalty-free license for Buyer to continue using the infringing goods or (iii) refund to Buyer the then-depreciated fair market value of the infringing component. SPX shall have no obligation under this Article to the extent a claim is based upon (a) the combination, operation or use of the goods with equipment, products, hardware, software, systems or data that was not provided by SPX, if such infringement would have been avoided in the absence of such combination, operation or use, or (b) Buyer's use of the product in any manner inconsistent with SPX's written materials regarding the use of such product or (c) infringement resulting from Buyer's specifications or designs or those of Buyer's contractors or subcontractors other than SPX. This Section states SPX's entire liability and Buyer's exclusive remedy with respect to any actual or alleged infringement arising from the use of the goods or services sold hereunder or any part thereof and is subject to the other limitations contained in these Terms.

11. LIMITATION OF LIABILITY

SPX shall not in any circumstances be liable for any loss of use, production, products, profit, business, contracts, revenues or anticipated savings, any increase in operating costs, any product recall or corrective action costs or any other financial or economic loss or any indirect or consequential loss or damage whatsoever whether suffered by the Buyer or by any third party. The total liability of SPX for all claims of any kind for any loss or damage resulting from its performances or lack of performance under the Contract shall not in any event exceed an amount equal to the Contract price. The exclusions and limitations of liability contained in these Conditions shall apply to all claims of any kind whether in contract, tort or otherwise on the part of SPX, its employees, agents, sub-contractors or suppliers. However no limitation or exclusion contained in these Conditions shall apply in cases of death or personal injury caused by the negligence of SPX, , gross negligence, wilful misconduct, and mandatory liability under legislation implementing Council Directive of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (85/374/EEC), or for any other matter for which it would be illegal to exclude or to attempt to exclude SPX's liability. If the Buyer is not the sole end user and ultimate owner of the Goods, then the Buyer shall use its reasonable endeavours to ensure by its contract with the end user or ultimate owner or its customer that SPX is given the benefit of the exclusions and limitations set out in these Conditions by all such users, owners and customers and shall indemnify SPX against claims of any kind by them to the extent that SPX would not be liable therefore to the Buyer under the Contract if the claim had been made by the Buyer.

12. FORCE MAJEURE

If performance of any obligation under the Contract is prevented, restricted or delayed by any act of God, act or omission of government, war, hostilities, acts of terrorism, industrial dispute, failure or delay in source of supply of materials or equipment, fire, explosion, accident or breakdown of essential machinery or equipment or by any cause (whether similar or not to any of the above events) beyond the reasonable control of the party whose performance is affected, then that party shall be excused from and shall not be liable for failure in performance to the

extent of that prevention, restriction or delay and the time for performance shall be extended accordingly. If performance is delayed for more than 3 months by any cause referred to above and the parties have not agreed upon a revised basis for continued performance at the end of the delay, then either party may after that period and while the cause of the non-performance still exists terminate the Contract by not less than 30 days' notice in writing to the other party, in which event the provisions of clause 14 shall apply.

13. EXPORT RESTRICTIONS

The Buyer acknowledges that the Goods may be subject to export restrictions, including those of the European Union (EU) and/or the United States of America (US) and undertakes to comply with all such applicable laws and regulations. In no event shall the Goods be directly or indirectly sold or otherwise transferred to any person or entity which is subject to sanctions by the EU and/or the US. In case of an intended export by the Buyer or a third party such as Buyer's customer, the Buyer agrees to provide SPX, upon SPX's request, with the name and country of the end user and a description of the end use. Such information may only be used by SPX to ensure compliance with export restrictions. Non-compliance with the provisions of this clause 13 shall constitute a good cause for SPX to terminate the Contract. To the extent SPX is required to obtain an export license for any Goods: (1) the acceptance of any order covering goods requiring such a license will be directly subject to the granting of the license; (2) SPX will use commercially reasonable effort to obtain such license; and, (3) Buyer shall make available all necessary information and documentation required for SPX to obtain such license.

14. TERMINATION AND SUSPENSION

If the Buyer (a) fails to make any payment when due or perform on time any of its other obligations under the Contract; or (b) becomes bankrupt or insolvent or makes any agreement with its creditors compounding debts or if, (c) being a limited company, any proceedings are begun in respect of it applying for the appointment of a liquidator, administrator, receiver or similar official for it or all or any substantial part of its assets or seeking an order of relief against it as debtor or under any law relating to insolvency, readjustment of debt, reorganisation, administration or liquidation, or (d) ceases or threatens to cease to carry on business, in each case of (a) through (d), SPX shall be entitled to terminate the Contract with immediate effect and/or to suspend performance of the Contract until events giving rise to the exercise of its rights of termination or suspension are remedied. SPX shall be entitled to exercise its rights of termination or suspension under this clause 14 at any time during which the event of default giving rise thereto shall not have ceased or have been remedied. No notice of termination may be given by either party except in accordance with the express provisions of these Conditions. Within 15 days of the issue by either party of a notice of termination of the Contract the Buyer shall pay to SPX the outstanding balance of the Contract value of the Goods which have been delivered at the date of the notice.

15. CHOICE OF LAW AND VENUE

The Contract shall be governed by the law of the jurisdiction in which SPX's facility accepting the Order is located. The United Nations Convention on Contracts for the International Sale of Goods and the conflict rules of international private law shall not apply. The competent courts of the jurisdiction in which SPX's facility accepting the Order is located shall have exclusive jurisdiction for all disputes between SPX and Buyer arising out of or in connection with the Order or Contract, including any question regarding its validity, existence or termination. SPX shall also have the right to initiate proceedings in any other court of competent jurisdiction.

16. MISCELLANEOUS

A transfer of the Buyer's rights and obligations under the Contract requires SPX's prior written consent. Each right or remedy of SPX under the Contract is without prejudice to any other right or remedy of SPX whether under the Contract or not. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable, it shall be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect. Failure or delay by SPX in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by SPX of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall not affect the other terms of the Contract. No condition under the Contract shall be enforceable by any third party.