

Swagelok Korea Fluid Systems Technologies Co. Ltd. Terms and Conditions

1. **Exclusive Terms and Conditions.** These Swagelok Korea Fluid Systems Technologies Co. Ltd. Terms and Conditions (“Terms”) govern the sale of the Swagelok® (“Swagelok”) Products (“Products”) as set forth in the written quotation (the “Quotation”) from Swagelok Korea Fluid Systems Technologies Co. Ltd. (“Seller”) and entity to which Seller is providing Products to under the Quotation (“Buyer”) (together, the “Parties”). It is expressly agreed that these Terms, together with the Quotation, contain the complete agreement between the Parties regarding the sale of Products from Seller to Buyer, and no agreement or other understanding purporting to modify them shall be binding upon Seller without Seller’s written consent.

Unless Buyer notifies Seller in writing of any specific exceptions to these Terms prior to submission of any order or any other form accepting the Quotation, Buyer’s placement of any order or any other form of Quotation acceptance shall constitute Buyer’s acceptance of the Terms contained herein. Any Buyer response to, or confirmation of the Quotation which states different or additional terms are specifically rejected unless specifically agreed to in writing by Seller. Seller’s failure to object to provisions contained in any communication from Buyer will not be deemed a waiver of the Terms contained herein.

2. **Price.** Prices for the Products (“Product Prices”) are set forth in the Quote. Except as otherwise noted on the face of Quote, Product Prices do not include taxes, import or export duties, or shipping costs. Wherever applicable, taxes, fees, assessments, duties and charges will be added to the invoices as separate charges to be paid by Buyer.
3. **Payment Terms.** Unless otherwise agreed in writing, all invoices are payable in U.S. Dollars and are due in NET thirty (30) days from the date of invoice. No discounts shall be provided for payments earlier than thirty (30) days. Late payments shall accrue interest at the rate of one percent (1.0%) per month. In the event that Buyer becomes delinquent in the payment of any sum due to Seller, Seller shall have the right to suspend performance or cancel deliveries of ordered Products under any Quotation or order until such delinquency is corrected. Partial shipments made under any Quotation or order shall be treated as a separate transaction and payment thereof shall be made accordingly.
4. **Limited Warranty.**
 - (a) Seller and the Swagelok authorized distributors hereby warrant to the purchaser of their Products that the non-electrical components shall be free from defects in material and workmanship for the life of the Products. All electrical components installed in or on the Product are warranted to be free from defects in material and workmanship for twelve months from the date of the purchase.
 - (b) The Buyer’s remedies shall be limited to replacement and, in non-ground vehicle applications, installation of any parts that fail through a defect in material or workmanship. Liability for installation is limited to reasonable costs that have been approved in advance and in writing by Seller.
 - (c) All customer-specified components carry the applicable manufacturer’s warranty. Warranty coverage hereunder only applies to Products purchased directly from either Seller or the Swagelok authorized distributors and representatives. All other purchases are specifically excluded from any warranty coverage.
 - (d) **ALL OTHER REPRESENTATIONS, EXPRESS OR IMPLIED, WARRANTY, OR LIABILITY RELATING TO THE CONDITION OR USE OF THE PRODUCT ARE SPECIFICALLY DISAVOWED, AND IN NO EVENT SHALL SELLER OR THE SWAGELOK AUTHORIZED DISTRIBUTORS AND REPRESENTATIVES BE LIABLE TO PURCHASER, OR ANY THIRD PARTY, FOR ANY DIRECT OR INDIRECT CONSEQUENTIAL, LIQUIDATED OR INCIDENTAL DAMAGES.**
 - (e) The warranty for any firmware or software Products that contain programmable logic or a microprocessor is governed by a separate [Swagelok Embedded System End User License Agreement, MS-13-330](#) accessible from [the www.swagelok.com](http://www.swagelok.com) website.
5. **Shipment and Title Transfer.** Buyer must specify any special packaging requirements. Seller reserves the right to substitute any other method of packaging reasonably comparable to Buyer’s specifications. Seller ships Products FCA Solon, Ohio. Transfer of title with respect to the Products shall coincide with the transfer of risk of loss in accordance with such INCOTERMS.
6. **Cancellation / Modification.** All requests for order cancellations must be submitted to Seller for review. Seller’s Operations Manager will evaluate and determine approval in writing for all order cancellation. Order cancellations will be subject to the following charges:

Cancellation Charge Table		
Products	Order Status	Charge
Swagelok Standard Product	Order entered	No charge
	Order in manufacture	Minimum 15%
Non Swagelok or Non-Standard Product	Order entered	15%
	Order in manufacture	100%

All order cancellation credits will be based on the price listed in the applicable purchase order.

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7. **Return.** Seller will accept returns in an amount equal to or less than 10% of the total dollar value of the Buyer's bulk orders to Seller with a 15% restocking charge or \$100 minimum, whichever is larger. Returns in excess of 10% of the total dollar value of the Buyer's orders to Seller will be negotiated on a case-by-case basis. All returns for credit must be received by Seller within 30 days after Seller approval and are subject to final inspection upon receipt. The Buyer will be responsible for all freight-related charges for returns. Any freight claims due to damage or loss during transport will be the responsibility of the Buyer. All order return charges and credits will be based on the price listed in the applicable purchase order. The following conditions must be met for all returned Products to be accepted:
 - (a) The Products must have been purchased from Seller specifically for the Project and product shipped from Seller within 90 days of request of Return for Credit;
 - (b) Seller approval is required prior to returning product;
 - (c) The Products must be Standard product not Special items. Special items include cut-to-length hoses, MTO (made-to-order) product, ETO (engineer-to-order) product, and Custom Solutions;
 - (d) The Products must be new, unopened and in the original factory sealed packaging.
8. **Limitation of Liability.** IN NO EVENT, WHETHER BASED ON BREACH OF WARRANTY OR CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR ANY OTHER LEGAL THEORY, (A) SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR COSTS ARISING OUT OF THE SELECTION, ORDERING, PURCHASE, USE, RESALE OR DISTRIBUTION OF THE PRODUCTS COVERED HEREBY OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR (B) SHALL SELLER'S TOTAL LIABILITY TO BUYER AND ANY THIRD PARTIES WITH RESPECT TO ANY SPECIFIC PRODUCT AND ANY RELATED SERVICES EXCEED THE PURCHASE PRICE TO SELLER FOR THAT PRODUCT AND SUCH SERVICES. SUCH DAMAGES THAT SELLER WILL NOT BE LIABLE FOR INCLUDE, BUT ARE NOT LIMITED TO: LOSS OF PROFITS, SAVINGS OR REVENUE; LOSS OF USE OF A PRODUCT OR ANY ASSOCIATED EQUIPMENT; COST OF CAPITAL; COST OF ANY SUBSTITUTE GOODS, EQUIPMENT, FACILITIES OR SERVICES; DOWNTIME; AND, THE CLAIMS OF THIRD PARTIES INCLUDING BUYER'S CUSTOMERS.
9. **Force Majeure.** Should performance of Seller be delayed or undeliverable due to acts beyond the control of Seller, Seller shall not be liable for any late delivery charges, liquidated damages, or other claims for any failure or omission in connection with Seller's performance. Buyer shall be given prompt notice of either the circumstance(s) causing the delay and the best estimate as to the expected period of delay, or of notice that the Product(s) are undeliverable.
10. **Intellectual Property and Confidentiality.** Seller retains for itself all of its intellectual property rights including but not limited to know-how, discoveries or inventions whether patentable or not, processes, trade secrets, designs, and other data or information pertaining to the Products. Buyer and Seller shall keep confidential and not disclose to third parties information either provided to Buyer or Seller, including but not limited to designs, specifications, and all other data related to the Products.
11. **Intellectual Property Indemnification.** Buyer shall ensure that no property, materials or designs provided by Buyer and used by Seller infringes any trademark, patent or copyright. Buyer will indemnify, defend and hold harmless Seller and its parent company, Swagelok, from any claims, damages, losses, liabilities and expenses (including attorney's fees) resulting from an action for patent, trademark or copyright infringement. Seller reserves the right to require Buyer to demonstrate satisfactory assurance of performance of Buyer's indemnity and other obligations to Seller, including appropriate evidence of insurance coverage. Buyer's refusal or failure to promptly furnish such assurances will be in breach of contract and will entitle Seller to suspend, or cancel further deliveries of the Products hereunder.
12. **Indemnification.** Notwithstanding anything to the contrary contained herein, Seller shall only indemnify and hold Buyer harmless for third-party death, bodily injury or property damage claims to the extent caused solely by acts or omissions of Seller.
13. **Use of Distributors.** Seller may use the exclusive Swagelok independent sales and services centers ("Distributors") for delivery of the Products and other related services including but not limited to invoicing Buyer. Such Distributors are independently owned and operated and may have separate terms and conditions governing the relationship with Buyer. To the extent agreements between Buyer and Distributors conflict with regard to the Products, these Terms govern.
14. **Seller Certifications.** Seller maintains an ISO 9001 certification. Seller shall comply with Buyer's quality and documentation requirements hereunder but only to the extent such requirements are part of the policies and procedures listed in Seller's ISO 9001 Certified Quality Manuals as amended from time to time.
15. **Miscellaneous.** The United Nations Convention on Contracts for the International Sales of Goods shall not apply to these Terms or the transactions contemplated hereunder. Nothing contained in these Terms shall be construed or interpreted as creating an agency, partnership, or joint venture relationship between the Parties. These Terms shall be interpreted and construed in the English language. Any translations of these Terms into other languages shall be for convenience purposes only.
16. **Dispute Resolution.** The Parties shall exercise all reasonable efforts to first resolve by negotiation any and all disputes between the Parties with respect to the application or interpretation of any term hereof or regarding the transactions hereunder, through amicable negotiation. If such dispute cannot be resolved in this manner to the satisfaction of Seller and Buyer within a reasonable

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period of time, maximum not exceeding ninety (90) days after the date of the notification of such dispute, either Party may then proceed to resolve such dispute by mediation in accordance with the Rules of Arbitration of the International Chamber of Commerce. Such mediation proceedings shall be held in London, England. In the event that any dispute is not resolved by mediation, such dispute shall be referred to and finally resolved by arbitration before three arbitrators appointed pursuant to the Rules of Arbitration of the International Chamber of Commerce, which entered into force on 1 January 2012 (ICC Arbitration Rules), as amended or replaced. The arbitration proceedings shall be held in London. The arbitration proceedings shall be conducted in the English language. The decision of the arbitrator(s) shall be final, binding and non-appealable. Judgment upon any award rendered may be entered into any court having jurisdiction, or application may be made to such court for judicial acceptance of the award or an order of enforcement, as the case may be. It is agreed, however, that the arbitrator shall not be an employee of either Party or in any way financially interested in the transactions hereunder, dispute, or claim. Each Party shall contribute equally towards the costs of the arbitration until the arbitrator's award. Each Party hereby waives any defenses it may have to the award or an order of enforcement as set forth in the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

17. **Choice of Law and Venue.** The laws of the State of Ohio, USA shall govern and be used to construe these Terms and any claims or disputes related to these Terms. Such laws shall exclude conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods. All actions or proceedings under or relating to these Terms shall be resolved in a state, or federal Northern District of Ohio court located in that jurisdiction; provided, however, that in Seller's discretion such an action may be heard in some other place designated by Seller if necessary to acquire jurisdiction over third parties to consolidate the dispute into one action. Buyer hereby agrees to appear in any such action, consents to the jurisdiction of such courts, and waives any objections it might have as to venue in any such court.
18. **Export Compliance.** Buyer shall comply with all applicable export laws at the point that the Products are transferred from Seller's possession to Buyer's possession. At no time after such transfer shall Seller be held responsible for any fees, taxes, duties or charges for any violation of U.S. or foreign export laws, rules or regulations. Buyer agrees to indemnify and hold harmless Seller for any losses sustained as a result of Buyer's failure to comply with U.S. or foreign import and export laws rules or regulations in connection with the Products.
19. **Government Contract Terms / Mandatory Flow Downs.** If Buyer's order is for a U.S. government contract, and goods or services ordered from Seller are to be used in the performance of said contract, only those mandatory flow down clauses of applicable U.S. government procurement regulations required by federal statute to be included in U.S. government subcontracts shall be incorporated herein by reference.
20. **Anti-Corruption/Anti-Bribery.**
 - (a) **Anti-Corruption.** Each Party acknowledges and agrees that it is familiar with and understands the provisions of the applicable anti-bribery and anti-corruption laws of the countries in which it will perform their respective obligations under this Quotation. Each Party represents and warrants that it has not engaged and will not engage in any conduct that violates the provisions of the applicable anti-bribery and anti-corruption laws of these countries, and shall abide by such laws while performing its obligations under this Quotation.
 - (b) **Anti-Bribery.** Neither Party nor any person acting for or on behalf of the Party shall offer, promise, arrange for or pay, either directly or indirectly, anything of value to any employee, officer or representative of the other Party, for the purpose of obtaining any improper advantage or benefit.
 - (c) **No Investigations.** Both Parties represent and warrant that neither the corporate entity they represent, nor any of its executives or employees, is under current criminal investigation or has been subject to any civil or criminal enforcement actions, at home or abroad, for improper conduct relating to bribery, corruption, or violation of the laws governing business corporate entities.
 - (d) **Breach.** In the event of a breach of any representations and warranties in this Section 20 by Buyer, this Quotation shall be void ab initio without the requirement of any written notice of cancellation. Buyer shall indemnify and hold the Seller harmless against any and all claims, losses, or damages arising from or related to such breach or cancellation of the Quotation or both. In no event shall Seller be obligated under this Quotation to take any action or omit to take any action that Seller believes in good faith would cause it to be in violation of any applicable laws.
21. **Liquidated Damages Claims.** Claims for liquidated damages must be made within 90 days of shipment.