

Alfa Laval Inc., Canada Standard Terms & Conditions of Sale



1. APPLICATION. These Standard Terms and Conditions of Sale (these "**Terms**") apply to all equipment, services, parts and materials ("**Products**") supplied by Alfa Laval Inc. ("**Alfa Laval**") to the purchaser ("**Customer**") unless otherwise agreed to by Alfa Laval in writing with respect to a specific transaction. In the event of any conflict between these Terms and any Customer purchase order or other document, these Terms shall prevail.

2. DEFINITIONS. In these Terms: (a) "**Price**" means the full amount to be paid to Alfa Laval in the transaction, including any trade-in or other special allowance, quoted in Canadian currency, DAP Customer Site (Incoterms 2020), unless otherwise specified; and (b) "**Technical Specifications**" means Alfa Laval's specifications for the Products being supplied.

3. TAXES AND FREIGHT. Unless otherwise specified, Price is exclusive of taxes, freight, and charges. Customer will pay or reimburse Alfa Laval for same.

4. TARIFFS AND DUTIES. Alfa Laval reserves the right to adjust the Price for any escalation in, or any surcharges due to, taxes or tariffs that occur between the date of Alfa Laval's last offer to Customer and the date of delivery. The adjustment in the Price shall be based solely on a change in Alfa Laval's direct costs and will not include any overhead or profit. Alfa Laval shall give written notice to Customer of any such adjustment, which shall be paid by Customer within thirty (30) days of receipt of Alfa Laval's notice. If Customer rejects the adjustment of the Price, Customer must notify Alfa Laval in writing within seven (7) days of Alfa Laval's notification, whereupon Alfa Laval shall have the right to terminate the Agreement on written notice and without any liability or compensation to Customer.

5. CREDIT APPROVAL / OVERDUE PAYMENTS. Each transaction is subject to approval of Customer's credit by Alfa Laval. If granted, credit terms are Net 30 Days, payable from date of invoice, unless otherwise specified. Overdue payments bear interest at the lesser of 1.5% per month (18% per annum) or the maximum rate permitted by applicable law. To secure payment of the Price, Customer grants and Alfa Laval retains a security interest in, and in Quebec hypothecates, the Products and the proceeds thereof for the amount of the Price, plus interest thereon at the aforementioned rate. Customer authorizes Alfa Laval to prepare and file any documents reasonably necessary to register this security interest and hypothec. In the event of default by Customer, Alfa Laval may repossess and deal with the Products as it sees fit, and Customer shall be responsible for all reasonable costs of repossession and shall remain liable for any deficiency.

6. ACCEPTANCE OF ORDER. Alfa Laval's sale of Products to Customer is limited to and expressly made conditional on Customer's assent to these Terms. These Terms, together with the applicable offer (if any), form part of the Agreement and supersede and reject all prior agreements, representations, discussions or negotiations, whether written or oral, with respect to such sale. Any terms and conditions contained in Customer's purchase order, request for quotation, or other document that are different from, in addition to, or that vary from these Terms are expressly rejected, shall not be binding upon Alfa Laval, and are void and of no force or effect. These Terms may not be changed except by written agreement signed by authorized representatives of both parties.

7. DELIVERY. Time for delivery of Products is approximate and starts to run at the later of: the date specified in the order confirmation; the resolution of all technical terms, including approval of drawings and commercial terms; the receipt by Alfa Laval of any advance payment; credit approval; and any requested security for the balance of the Price. Except for any late delivery penalty to which Alfa Laval may explicitly have agreed for a specific supply, Alfa Laval is not liable for losses of any kind incurred by Customer for delays in or failure to deliver all or any part of the Products. If prior to delivery Alfa Laval has reasonable concern regarding timely payment of the Price because of an adverse change in Customer's circumstances or otherwise, it may require payment of all or additional parts of the Price before shipment.

Delivery of Products is deemed complete upon shipment per the agreed Incoterms. If Customer is unable or unwilling to accept physical delivery at the time specified, Alfa Laval may store Products at Customer's sole risk, cost and expense and delivery of such Products shall be deemed complete as of the date of storage. Unless otherwise specified in writing, risk of loss or damage to the Products, including any repaired or replaced items, and the responsibility for the payment of insurance premiums and freight, passes to Customer upon delivery by Alfa Laval, although Alfa Laval will not be liable and expressly disclaims any and all risks relating to losses and damages arising from the storage of the Products by Alfa Laval as aforesaid and Customer will bear all such risk of loss in respect of, or damage to, the Products.

If Customer does not perform any material obligation, Alfa Laval may, in addition to any other remedy, suspend its performance until Customer has performed its outstanding obligations. All times for delivery of Products, but not the schedule for payment, will be extended accordingly. Customer will be responsible for Alfa Laval's reasonable costs and damages caused by Customer's failure to perform.

8. INSPECTION AND ACCEPTANCE. Customer will inspect Products immediately upon delivery. Alfa Laval may, at its option, be present at such inspection. Customer shall notify both the carrier and Alfa Laval in writing of any missing, damaged or defective Products immediately, failing which Customer is deemed to have accepted such Products as delivered and shall have no claim for same. Customer's notification of missing, damaged or defective Products does not constitute conclusive evidence of the Products' condition at the time of delivery.

9. MECHANICAL WARRANTY. For all new and fully factory refurbished equipment, Alfa Laval warrants to Customer that the Products meet the Technical Specifications in all material respects and are, together with any replacements of defective Products, free from defects in material and workmanship for a period, unless otherwise specified in writing, of one (1) year from the date of initial delivery of the Products. For all repairs, parts and services, Alfa Laval warrants to Customer that the Products meet the Technical Specifications in all material respects and are free from defects in material and workmanship for a period, unless otherwise specified in writing, of one hundred and eighty (180) days from the date of initial delivery of the Products.

Alfa Laval will, at its option, repair, replace or refund the Price of any Products found to be defective during the warranty period. This is Customer's sole and exclusive remedy for Products which do not meet this warranty. Customer must notify Alfa Laval in writing of the claimed defect promptly after the appearance thereof and in no event later than ten (10) days after the expiry of the warranty period. Customer will bear risk of loss of, or damage to, defective Products in shipment to Alfa Laval. Customer will reimburse Alfa Laval at Alfa Laval's customary rates for service personnel attending to any warranty claim at Customer's premises.

The warranty does not apply to ordinary wear and tear or to erosion or corrosion and shall be null and void if Products are used for unintended purposes, are misused, abused, improperly stored, installed, maintained, operated or repaired, are operated by Customer other than in accordance with Alfa Laval's instructions, if any, or under abnormal conditions, or are exposed to radioactive materials.

10. OTHER WARRANTIES. Products will conform with applicable federal, provincial and local laws in effect on the date of acceptance of order. Alfa Laval may increase Price to reflect increased costs resulting from changes to laws or regulations after the date of acceptance of order. Products will not infringe any patent, copyright, trade secret or other proprietary rights of any third party and, except as provided for under Section 5 above, shall be free from liens and encumbrances.



Alfa Laval will use its commercially reasonable efforts to remedy or resolve at its cost any violation of the warranties in this section 10. If Customer is permanently unable to use any of the Products or their use is unreasonably restricted, Customer's sole remedy is the right to return such Products against a full refund of the Price.

11. NO OTHER WARRANTIES. CUSTOMER ACCEPTS THE LIMITED WARRANTIES SET OUT IN THESE TERMS AS THE ONLY WARRANTIES PROVIDED BY ALFA LAVAL WITH RESPECT TO THE SALE, DELIVERY, INSTALLATION, PERFORMANCE AND SERVICING OF THE PRODUCTS. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, SPOKEN OR IMPLIED BY ALFA LAVAL OR ITS AGENTS, PRESCRIBED BY STATUTE OR OTHERWISE IMPLIED BY LAW, INCLUDING WITHOUT LIMITATION AS TO MERCHANTABILITY OR FITNESS FOR CUSTOMER'S PURPOSE. NO OTHER MATERIALS, EXCEPT AN EXPRESS PERFORMANCE OR EXTENDED WARRANTY SIGNED BY ALFA LAVAL FOR A SPECIFIC SUPPLY, SHALL GIVE RISE TO ANY WARRANTY OF ALFA LAVAL.

12. WARRANTIES ON RESALE. Customer shall make no representation or warranty in any resale of the Products, or sale of any product incorporating the Products, other than those contained in these Terms. Customer shall indemnify, defend and hold Alfa Laval harmless against any and all claims, actions and expenses (including reasonable lawyers' fees) in connection with any unauthorized representations or warranties or in connection with any claim of process patent infringement relating to a process in which the Products are used as a component part.

13. LIMITATION OF LIABILITY. IN NO EVENT SHALL ALFA LAVAL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, OR FOR LOST PRODUCTION, LOST REVENUE, LOST PROFITS OR LOSS OF USE, ARISING OUT OF OR RELATING TO THE PRODUCTS OR THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. ALFA LAVAL'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH ANY AGREEMENT FOR THE SUPPLY OF PRODUCTS SHALL NOT EXCEED THE PRICE ACTUALLY PAID OR PAYABLE BY CUSTOMER FOR THE PRODUCTS GIVING RISE TO THE CLAIM.

14. PERMITS. Customer must obtain at its expense all licenses, permits and approvals for the purchase, delivery, installation and use of any Products.

15. FORCE MAJEURE. Either party may be excused from the timely performance of its obligations in the sale or other supply of any Products if its performance is impeded or prevented by circumstances beyond its reasonable control, including without limitation acts of God, pandemic, epidemic, fire, flood, earthquake, war, terrorism, labour disputes, governmental actions, sanctions, embargoes, shortage of materials or energy, or cyber-attack, and the affected party is taking all reasonable steps to mitigate the effect of the delay. The party claiming relief must notify the other party promptly upon the occurrence and upon the termination of the circumstances giving rise to the claim. Either party may terminate the Agreement for the Products affected if such circumstances continue for more than six (6) months.

Notwithstanding anything in this Section 15, Customer must extend any security for the payment of the Price for a period equal to the delay in Alfa Laval's performance and pay Alfa Laval for that portion of the Products manufactured or delivered to the date of the initial notice. If by no fault of Alfa Laval or its affiliates it is delayed in delivering any Products, it is entitled to increase the Price to reflect any actual costs incurred because of the delay.

16. SOFTWARE. If software is included in the Products, Alfa Laval grants to Customer a non-exclusive, non-transferable, royalty-free licence solely for use of the software provided with the Products. Under this licence, Customer may: (i) use the software only in machine-readable object code and only in connection with the Products; (ii) copy the software in machine-readable object code for backup purposes in support of the use of the Products; and (iii) create one additional copy of the software for archival purposes only. This licence may not be assigned, sublicenced or otherwise transferred without the prior written consent of Alfa Laval. Customer acknowledges that the software comprises valuable trade secret and/or copyright property of Alfa Laval (or its licensor) and covenants that it will take all reasonable precautions against unauthorized access to or disclosure of the software. Customer shall not reverse engineer, decompile or disassemble the software.

17. INTELLECTUAL PROPERTY. All drawings, designs and specifications provided by Alfa Laval are the sole property of Alfa Laval and are furnished in order to provide full documentation, on the condition that they shall not be reproduced or copied in any manner whatsoever, in whole or in part, nor shall they be used, in whole or in part, for furnishing information to others or for any purpose not specifically authorized in writing by a corporate officer of Alfa Laval Inc.

18. CUSTOMER'S DRAWINGS AND TECHNICAL SPECIFICATIONS. All drawings and specifications provided by Customer must be submitted in English and conform with Alfa Laval's standards. Customer may not make any changes to drawings accepted by Alfa Laval without its prior written consent. Changes made without Alfa Laval's consent may void any warranty adversely affected thereby. Customer represents and warrants that any designs, specifications or materials provided by Customer for incorporation into the Products do not infringe any third party's intellectual property rights, and Customer shall indemnify and hold Alfa Laval harmless from any claim arising therefrom.

19. CONFIDENTIAL INFORMATION. Proprietary or confidential information disclosed by either party for the supply of any Products ("**Confidential Information**") must not be used or disclosed by the recipient other than for the express purpose for which it was disclosed. Each party shall protect Confidential Information with at least the same degree of care it uses for its own confidential information, but in no event less than reasonable care. The obligations of this Section 19 shall not apply to information that: (a) is or becomes publicly available through no breach of this Section; (b) was known to the recipient prior to disclosure; (c) is independently developed by the recipient without use of or reference to the disclosing party's Confidential Information; or (d) is required to be disclosed by applicable law, regulation or court order.

20. EXPORT CONTROL. Customer acknowledges and agrees that the Products and services under any Agreement may be subject to export and sanctions laws and regulations, restrictions, authorizations and licenses, including without limitation those of Canada, the EU, UN or U.S. (collectively, "**Export Laws**"). Any delay or incomplete delivery by Alfa Laval or its subcontractors under any Agreement arising out of or in connection with Export Laws requirements shall not constitute a breach of the Agreement. All offers, orders and deliveries are subject to all necessary authorizations and licenses being granted. Notwithstanding anything to the contrary set forth elsewhere in any Agreement, Alfa Laval shall always be entitled to unilaterally suspend and/or terminate the Agreement on written notice, without incurring any liability for damage or loss arising out of or relating to such suspension and/or termination, if and to the extent performance of the Agreement is impeded or made unreasonably onerous, as determined by Alfa Laval in its sole discretion, by any Export Laws or from any resulting hindrances such as Alfa Laval policy, payment, travel, license/authorization or transportation restrictions or limitations, whether foreseen or not at the time of formation of the Agreement, or if Alfa Laval reasonably determines that Customer has failed to comply with any part of this clause. Customer agrees to comply with all Export Laws applicable with respect to all activities conducted under or in connection with the Agreement. Customer undertakes not to, directly or indirectly through affiliates, third parties or otherwise, export, re-export, sell, resell, use, transfer, transport, forward or make available any product, software, data or technical/commercial information supplied by Alfa Laval, or otherwise in any way cause Alfa Laval and its affiliates to be in violation of any applicable Export



Laws. In particular, but without limitation, Customer undertakes not to sell, export, or re-export any goods covered by Articles 12g or 8g of EU Regulations 833/2014 and 765/2006 and supplied under or in connection with any Agreement to, or for use in, Russia or Belarus, directly or indirectly, and not to disclose or sublicense any related Alfa Laval intellectual property right or proprietary information to Russia or Belarus. Customer confirms it will use its best efforts to ensure compliance throughout its commercial chain and shall for this purpose have in place adequate monitoring mechanisms. Failure by Customer to comply with any part of this clause, including Customer being designated under Export Laws, shall constitute a material breach of the Agreement, allowing Alfa Laval to terminate the Agreement with immediate effect, and Customer shall indemnify and hold Alfa Laval and its affiliates harmless from and against any loss, liability, claim, proceeding, action, fine, cost and damages of whatever nature that Alfa Laval or its affiliates may incur or sustain out of or in connection with such breach. Customer shall immediately inform Alfa Laval about any change of ownership, control and/or other circumstances that may constitute a breach of this clause. Customer shall further provide Alfa Laval with any information which Alfa Laval deems necessary to ensure compliance with Export Laws.

21. CHANGE ORDERS. Any request by Customer to change the scope, specifications or delivery schedule of Products after acceptance of the order by Alfa Laval must be submitted in writing and is subject to Alfa Laval's prior written approval. Alfa Laval shall advise Customer of any resulting adjustments to the Price and delivery schedule, and no change shall be effective until agreed in writing by both parties.

22. ASSIGNMENT. Neither party may assign all or any part of the Agreement without the prior written consent of the other party, except that Alfa Laval may assign any portion to an affiliated company without the prior consent of Customer. Any purported assignment in violation of this Section shall be void.

23. COMPLIANCE WITH LAWS. Each party shall comply with all applicable laws, regulations and orders in the performance of its obligations under the Agreement, including without limitation all applicable anti-bribery and anti-corruption laws.

24. WAIVER. No act or omission by either party shall act as a waiver of an unperformed obligation of the other party or constitute an agreement to allow future breaches of the applicable provision. No waiver shall be effective unless made in writing and signed by the waiving party.

25. SEVERABILITY. If any provision of these Terms is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect. The invalid or unenforceable provision shall be modified to the minimum extent necessary to make it valid and enforceable while preserving the parties' original intent.

26. NOTICES. All notices required or permitted under these Terms shall be in writing and shall be deemed duly given when delivered personally, sent by nationally recognized overnight courier, or sent by email (with confirmation of receipt), to the addresses set out in the applicable order confirmation or as otherwise notified in writing by either party.

27. ENTIRE AGREEMENT. Products are sold only pursuant to a written order on terms expressly accepted by Alfa Laval which, together with any schedules identified therein and these Terms, contains the entire agreement of the parties with respect to the sale or other supply of the Products (collectively, the "Agreement") and supersedes all prior or contemporaneous statements, understandings, representations or agreements, whether written or oral. Alfa Laval rejects any differing or supplemental terms which may be printed or otherwise found in any of Customer's purchase order or other documents. Any alteration of the Agreement must be in writing and signed by an authorized representative of each party. Descriptive data found in any advertisement, catalogue, brochure, circular or the like are approximate and must not be considered as any warranty or representation as to Technical Specifications unless specifically included in performance criteria expressly warranted in the transaction.

28. SUSPENSION OR CANCELLATION. Subject to Section 15, the Agreement may not be cancelled or suspended by Customer without the express written consent of Alfa Laval, such consent to be granted in Alfa Laval's sole discretion and upon such terms, including the payment of all costs incurred and profits foregone, as Alfa Laval may reasonably require.

29. INTERPRETATION. If there are contradictions or inconsistencies between statements made in any order confirmation and documents related to a specific sale and supply, all documents shall be read so as to give priority to the specific statement accepted by Alfa Laval by the signature of an authorized officer over the general statement; however, if the contradiction is with any of these Terms, these Terms shall prevail unless Alfa Laval has expressly stated in writing that the contradictory term or condition shall prevail.

30. DISPUTE RESOLUTION. Any dispute arising out of or in connection with the Agreement, or any aspect thereof, shall first be referred to the senior management of each party for resolution. If the dispute is not resolved within thirty (30) days of such referral, either party may pursue its remedies at law in accordance with Section 31.

31. GOVERNING LAW AND JURISDICTION. The sale of the Products and all agreements related thereto are governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of laws principles. Each party irrevocably submits to the exclusive jurisdiction of the courts of the Province of Ontario sitting in Toronto. The United Nations Convention on Contracts for the International Sale of Goods is hereby excluded.

32. LANGUAGE. Cette convention est disponible en version française. This Agreement is available in the French language. Si vous choisissez de signer la version anglaise de cette convention, vous serez réputé avoir exigé que cette convention et tous documents y afférents soient rédigés en langue anglaise seulement. If you choose to execute the English language version of this Agreement, you will be deemed to have required that the Agreement and all related documents be drafted in English only.