

**BS&B SAFETY SYSTEMS, L.L.C. - BS&B PRESSURE SAFETY MANAGEMENT, L.L.C.**  
**TERMS AND CONDITIONS OF SALE AND LIMITED WARRANTY**  
**(1/2018)**

**Definitions** – Hereinafter the term “Seller” shall mean BS&B Safety Systems, L.L.C.; BS&B Pressure Safety Management, L.L.C. or other selling entity affiliated with Seller’s quotation/proposal, sales order acknowledgment, invoice, webpage or communication. “Buyer” shall mean the person to whom, or entity to which, Goods are sold by Seller. “Goods” shall mean all goods, technology, software and services supplied by Seller to Buyer, including, but not limited to, pressure relief devices, explosion protection equipment, valves, flame arresters, breather vents, Seller’s original equipment manufacturer parts, and other parts, materials, equipment or services provided by Seller.

**Seller’s Terms Govern** – These Terms and Conditions of sale (“Terms and Conditions”) shall apply to and control the sale of all Goods, including but not limited to those Goods described or referenced in Seller’s Quotations, Sales Orders, Sales Order Acknowledgments, Invoices or other documentation or communication. While Buyer’s acceptance of Seller’s quote may be evidenced by the issuance of a purchase order or similar document, Buyer is advised that Seller objects to and rejects all purchase order terms that are different from or in addition to Seller’s Terms and Conditions. No other terms and conditions, including any terms and conditions attached to or contained within Buyer’s request for quotation, purchase order or other Buyer documentation, shall apply. Buyer’s receipt of Seller’s Sales Order Acknowledgment and/or the Goods being delivered or services performed by Seller shall constitute Buyer’s acknowledgment and agreement that these Terms and Conditions govern the purchase and sale of the Goods. The sales agreement between Buyer and Seller is agreed to have been negotiated, entered into and performed in the City of Tulsa, Tulsa County, Oklahoma.

**PRODUCT WARRANTY**

**Warranty** - Seller warrants the Goods, when installed, used, maintained, and commissioned (if applicable) in accordance with Seller’s specifications, requirements, installation instructions and other directions, against defective workmanship and materials for the time period(s) specified below. Buyer’s failure to use and maintain the Goods in strict compliance with all material operating specifications and at minimum recommended intervals shall void this warranty. Fire and explosion suppression systems must be certified at commissioning, and again quarterly (by Seller or its authorized representative) in order to maintain warranty coverage. Seller does not warrant any article not manufactured by Seller or its affiliated companies; **THOSE GOODS ARE SUBJECT SOLELY TO THE WARRANTIES PROVIDED BY THEIR RESPECTIVE MANUFACTURERS AND PERMITTED TO BE PASSED THROUGH BY SELLER TO BUYER.** Seller will provide a copy of those warranties upon request. Customer service or alteration of the Goods shall void this warranty.

Seller warrants the Goods as follows:

Pressure relief devices, including rupture disk devices, pressure relief valves, explosion vents and buckling pin devices:	<b>12 months from date of shipment</b>
Explosion protection equipment:	<b>12 months from date of shipment</b>
Flame arresters, breather vents:	<b>12 months from date of shipment</b>
Seller’s original equipment manufactured parts:	<b>12 months from date of shipment</b>
Spare parts for same:	<b>90 days from date of shipment</b>

THE WARRANTIES HEREIN GIVEN ARE EXCLUSIVE AND IN LIEU OF ALL WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BUYER’S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY SHALL BE, AT SELLER’S OPTION, THE REPAIR OR REPLACEMENT OF THE GOODS, F.O.B. (FOR U.S. DESTINATIONS) OR EX WORKS (FOR NON-U.S. DESTINATIONS), SELLER’S POINT OF SUPPLY.

**Reliance on Seller’s Information, Warranty and Liability Limitations** - Seller manufactures and supplies Goods in reliance upon information and specifications provided by Buyer. The Buyer’s or user’s facility design, facility operating conditions and environment, process specifications, installation procedures, materials, hazard analysis risks, and/or other operational conditions can affect the performance of the Goods. Seller shall have no liability, of whatever nature, resulting or arising from: (a) Buyer’s failure to account for, disclose fully, and/or take appropriate precautions regarding all material operating conditions, facility design and operation details, design parameters, process specifications (including, but not limited to, fuel grade, process temperatures, process material,  $K_{st}$ ,  $P_{max}$ , vibration involved and/or presence of corrosive or toxic materials), and system or vessel requirements; (b) placement of the Goods in a location other than represented to Seller or required by Seller; (c) Buyer’s failure to protect other facility equipment and/or conduct an appropriate hazard analysis; (d) improper installation of the Goods; (e) any misrepresentations or omissions by Buyer; (f) and/or the system’s operation, discharge or operation of the Goods as designed. If Seller’s quotation was based on assumptions regarding any of these factors (including  $K_{st}$  and/or  $P_{max}$  values), it is the Buyer’s responsibility to verify the accuracy of such values.

**Explosion Protection Equipment** - It is the responsibility of the owner / operator of facilities in which explosion protection equipment and systems are utilized to comply with the requirements of the Authority Having Jurisdiction (AHJ) and other local jurisdictional requirements that typically include National Fire Protection Association (“NFPA”) Standard 652 and its derivatives and references. Seller is neither the AHJ nor can Seller be authorized to act as such. When Seller commissions explosion protection equipment systems, subject to additional charge, this verifies only that such systems have been electrically connected for use and that equipment placement is according to Seller’s application drawings that are derived from Buyer’s application disclosure. Seller’s explosion protection equipment and systems do not prevent explosions; the equipment and systems mitigate the effect of an explosion after it has originated. Seller’s explosion protection equipment and systems address only a deflagration event originating from the location(s) identified in Sellers application drawing(s). Buyer shall assume responsibility for ensuring proper installation of the Goods and the protection of all other facility or process equipment outside of the scope of Seller’s supply. Buyer must ensure that other equipment within its facility or process is independently and adequately protected in a manner that will not only provide for safe operation of that equipment, but will also protect against a deflagration propagating towards (and potentially damaging) the Seller-protected equipment. An explosive event that is caused by a user’s facility or process design, facility operation or factors other than the design or operation of the Goods is not controlled by Seller.

The Buyer and/or owner / operator is responsible for ensuring the facility is safe to operate. The Buyer agrees to be responsible to: (a) provide complete and accurate information to Seller; (b) ensure the user’s facility is otherwise protected from all other reasonably foreseeable risks; (c) conduct a dust hazard analysis and process safety analysis according to the requirements of the AHJ; (d) obtain all appropriate permits and authorizations; (e) install the Goods in a manner consistent with the installation instructions and (f) undertake all steps necessary to ensure safe operation of the facility.

It is the responsibility of the owner / operator of facilities in which explosion vents are utilized to comply with the requirements of the AHJ, which is typically the use of National Fire Protection Association (“NFPA”) Standard 68. Owners / operators must deploy an appropriate number and configuration of vents; ensure vents are installed where activation will not cause personal injury or unacceptable property damage; ensure vents are not adversely affected by process conditions or conditions on the non-process side of the vent; and provide appropriate mounting and support structures to support the vent and to withstand activation of the vent. Seller’s installation and operating instructions shall be followed by Buyer.

Warranty Limitations - Seller does not warrant Goods against loss or damage caused directly or indirectly by Buyer's or user's improper system design; by the improper use, maintenance or installation (including improper mounting or torque) of the Goods; or by corrosion, erosion, malfunction or release from this or any other device caused by acids, chemicals, fumes, rust, dirt, debris, thermal shock, shock waves, water or moisture ingress, propagation from unprotected equipment, or other external agencies over which Seller has no control.

SELLER'S AGGREGATE TOTAL LIABILITY TO BUYER FOR ANY AND ALL LOSS OR DAMAGE ARISING OUT OF BUYER'S USE OR INABILITY TO USE THE PRODUCT SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT. SELLER SHALL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF BUYER'S PURCHASE, INSTALLATION OR USE OF THE PRODUCT, AND IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES RESULTING FROM ANY SUCH CAUSES.

No agent, distributor, employee or other representative (including Seller's Distributors and Sales Representatives) has the right to modify or expand Seller's standard warranty applicable to the Goods or to make any representations as to the Goods other than those set forth in Seller's product literature and any such unauthorized affirmation, representation or warranty, if made, should not be relied upon by Buyer and shall not form a part of these Terms and Conditions.

### SERVICES WARRANTY

**Warranty** - Seller warrants its labor, repair, installation, maintenance, and commissioning services for a period of ninety (90) days from the date of service. No warranty is provided for any required or recommended inspection.

### GENERAL TERMS AND CONDITIONS

**Indemnity** - Seller manufactures and supplies its Goods in reliance upon specifications and other information provided by Buyer. Buyer agrees to indemnify, defend and hold Seller and its officers, employees, affiliated entities and agents harmless from any claims, judgments, damages, fines, penalties, costs, liabilities (including sums paid in settlement of claims) or loss, including attorney's fees and expenses, arising from or related to Buyer's specification, purchase, installation or use of the Goods and not solely as the result of Seller's fault or negligence. Buyer shall indemnify and protect Seller, including assuming the legal defense and costs, from claims filed against Buyer and/or Seller by any third party and not arising solely as the result of Seller's fault or negligence.

**Limited License** - Buyer acknowledges that the Goods, components of the Goods, and methods of making and using the Goods are protected by intellectual property rights owned by Seller. Seller is and shall remain the sole and exclusive owner of any software and any intellectual property incorporated into or embodied in the Goods at all times. The Goods are offered for sale and sold by Seller hereunder expressly subject to the condition that such sale does not convey any license, expressly or by implication, estoppel or otherwise, under any intellectual property rights of Seller with respect to any invention of Seller or any third party, patented or not patented, embodied in Seller's Goods, processes, sales literature or manufacturing operations; except that Seller hereby grants to Buyer, under Seller's intellectual property rights, a limited, non-exclusive, non-transferable, non-sub-licensable, non-assignable license to use such intellectual property solely as necessary to use the Goods in Buyer's business. Seller expressly reserves its intellectual property rights, and no manufacture to Buyer's specifications grants any ownership by or conveyance to Buyer of, or to, any property right in any Seller invention. Buyer shall not attempt to reverse engineer or otherwise discover Seller's intellectual property, patentable, patented or non-patented inventions, trade secrets, secret processes or other confidential information embodied or contained in Seller's Goods.

**Price** - Prices shown are current and may be subject to correction. If prices are different than shown on Buyer's Purchase Order, Seller's prices shall control. In the event Buyer-local certifications, regulations, directives or other requirements are outside of Seller's standard product line offering, Buyer shall so advise Seller of such requirements and Seller shall assume any resulting costs.

**Taxes and Duties** - Unless otherwise indicated on the face of Seller's quotation or sales order acknowledgment, prices specified and/or quoted are exclusive of freight, insurance, taxes (sales, value added, excise or other taxes) or duties.

**Terms of Payment** - Unless otherwise agreed in writing by Seller, payment is due 30 days from date of invoice. Past due charges of 1.5% per month will be levied on all past due amounts, from the date of invoice. All sales are subject to approval by Seller's credit department. Seller reserves the right to require pre-paid payment terms or other payment security from any Buyer. Buyer hereby grants to Seller a purchase money security interest in the Goods sold to Buyer and the proceeds thereof in the amount of the purchase price until such purchase price is indefeasibly paid in cash in full. Buyer hereby authorizes Seller to file such financing statements and other instruments that Seller desires to perfect, protect or enforce Seller's security interest.

**Delivery and Shipment** - Shipment terms (including responsibility for payment of freight and insurance), title passage and risk of loss or damages shall be F.O.B. (U.S. destinations) or Ex Works (non-U.S. destinations), Seller's point of manufacture. Buyer shall be the "responsible party" for export purposes. All prepaid freight shipments are subject to shipping and handling charges to Buyer unless otherwise agreed in writing. Seller reserves the right, at its option, to amend the delivery date of any shipment and any such commercially reasonable amendment shall not constitute a breach by Seller. Seller shall have no liability, directly or indirectly, for loss or delay, or for the failure to perform or make delivery, due in whole or in part to any cause or occurrence beyond the reasonable control of Seller. Commercially reasonable delays, including those arising from force majeure or factors beyond Seller's reasonable control (including but not limited to customer requirements changes or additions, customer delays, unavailability of materials, sub-contractor delays, etc.), shall not be subject to or give rise to damages, liquidated damages, penalties, expediting obligations or cancellation. Seller reserves the right to deliver in more than one shipment and to invoice shipments separately. Unless otherwise agreed, packing and markings will be as per standards for domestic shipments. Special packaging, marking, export crating, export processing, shipping and/or handling, freight and insurance will be undertaken as extras at Buyer's cost.

**Export Compliance** - Buyer acknowledges that the Goods may be manufactured in the United States, the European Union or elsewhere, and Buyer agrees and affirms that its purchase of the Goods complies with all export laws, rules and regulations currently in force in the United States, the European Union and any country in which Buyer is located or does business. Buyer certifies that the product is not intended for utilization or inspection by, or shipment or trans-shipment to, any country, entity, individual or end-use proscribed by the laws, regulations or directives of the United States, the European Union or any other country through or into which the Goods may pass.

**Quotations** - Seller's quotations are valid for thirty (30) days, unless otherwise agreed by Seller, and represent no obligation unless and until Buyer accepts Seller's offer, without reservation or exception, within the quotation validity period.

**Packing and Marking** - All packing and marking will be in accordance with Seller's standard practices for domestic shipments. Special packaging, marking, export packing, etc. will be subject to extra charges.

**Delivery/Shipping Dates** - Shipment and delivery dates are estimates only, based on current conditions and Seller's ability to secure labor, materials and parts.

**Cancellation** - If orders accepted by Seller are canceled by Buyer, Buyer shall pay all reasonable costs, expenses, losses, and damages sustained by Seller in connection with such cancellation, including administrative and engineering expenses.

**Return of Merchandise** - Goods may not be returned without Seller's prior written consent and shipping instructions. All Seller-approved returns of Goods are subject to a restocking charge.

**Attorney's Fees and Costs of Collection** - Buyer agrees to pay any and all reasonable attorney's fees and costs of collection incurred by Seller in collecting any sums due under this Agreement.

**Applicable Law and Jurisdiction** - This Agreement shall be governed by the laws of the State of Oklahoma, U.S.A. Any action relating to this Agreement shall be brought exclusively in the state or federal courts located in Tulsa, Oklahoma, U.S.A.