



## OMB VALVES S.P.A.

CON SOCIO UNICO – ELI.FIN GROUP

Via Europa, 7 Cenate Sotto  
24069 Bergamo, Italy  
Ph +39 035 4256711  
Fx +39 035 942638  
[www.ombvalves.com](http://www.ombvalves.com)



## OMB STANDARD TERMS AND CONDITIONS OF SALE

### 1. LIMITED WARRANTIES

OMB Valves SpA (Manufacturer) warrants that the Goods shall be free from defects for a period of (12) months after valve installation but in any case no longer than eighteen (18) months following shipment (the "Warranty Period"). This limited warranty shall apply only in favor of Buyer and shall be subject to the following:

This warranty shall not apply to Goods that have been:

- i. repaired or altered by any Person other than Manufacturer or Manufacturer's authorized personnel;
- ii. subjected to unreasonable or improper use or use beyond rated conditions, improper storage, improper installation, negligence or accident;
- iii. damaged because of use of the Goods or incorporation of the Goods into use of any Goods with other materials or equipment, after Buyer (or any other person using the Goods) has, or reasonably should have, knowledge of any defect;
- iv. manufactured, fabricated or assembled by any person other than the Manufacturer (the Manufacturer shall assign to Buyer, to the extent same is assignable, any warranty he has received from the manufacture of such Goods);

This warranty shall not be effective unless Manufacturer receives, during the Warranty Period, a written claim within thirty (30) days after discovery of any defect with respect to which a claim is made.

The Manufacturer shall have the right (but not the obligation) to verify, with its own representatives, the nature and extent of any claimed defect. Upon request by the Manufacturer, Buyer shall, at its own risk and expense, promptly return the Goods in question to Manufacturer plants.

Buyer covenants to inform all subsequent buyers and users to the Goods of the limitations and exclusion of the warranties provided herein. Buyer hereby indemnifies and agrees to hold Manufacturer harmless from and against all losses, cost and expenses, including reasonable attorney's fees incurred by Manufacturer as a result of any third-party claim relating to the purchase, sale or use of, otherwise relating to, the Goods covered by this agreement.

Manufacturer's liability for any breach of warranty shall be limited either to

- v. repair or replacement (whichever Manufacturer shall elect) at Manufacturer's Plant of any Goods determined to be defective, or
- vi. payment of an amount equal to the invoiced cost to the Buyer of the part or material that is defective, as Manufacturer may elect.

In no event shall Manufacturer be required to repair, replace or reimburse Buyer for more than the part or material that is found to be defective and Manufacturer's liability shall in no event be greater than the invoiced price of the item and shall not include labor, shipping or other costs incurred in connection with the reshipment of defective Goods or the reinstallation of such Goods after any repair or replacement. The Goods, as a whole, shall not be construed to be a "part" or "material" for the purpose of the immediately preceding sentence. Any Goods that are repaired or replaced by Manufacturer shall be re-delivered to Buyer F.O.B. Manufacturer's Plant and shall be warranted for the remaining term of the original Warranty Period for such Goods. THE REMEDY SET FORTH IN THIS LIMITED WARRANTY IS EXPRESSLY AGREED TO BE SOLE AND EXCLUSIVE REMEDY FOR ANY SUCH BREACH OF WARRANTY.

THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES (EXCEPT OF TITLE), EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED OR EXPRESS WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND CONFORMITY TO MODELS OR SAMPLES. ALL OTHER LIABILITY WHETHER IN CONTRACT OR TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, IS HEREBY EXCLUDED.

In any case, it is hereby agreed that except for liability arising out of gross negligence or willful misconduct, in no event shall Manufacturer aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort, breach of warranty or otherwise, exceed 100% (one hundred percent) of the invoiced costs of the defective Goods, with the express exclusion of any Manufacturer's liability with regard to consequential, indirect, incidental, special, exemplary, punitive damages, loss of profits or revenues or diminution in value, legal fees or legal costs.

### 2. LIQUIDATED DAMAGES

Liquidated Damages are not applicable to material and/or documents.



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### 3. CANCELLATIONS

Further to the conclusion of the Agreement, no Product may be returned to Seller's without prior written agreement. Orders accepted by Seller may not be cancelled except upon Seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation charges which shall protect Seller against all costs borne by the Seller before the cancellation and any losses as a consequence thereof. Minimum Charges identified as follow:

Cancellation Table for MTS Program	
<b>ATO (2ww Delivery)</b>	
Purchase order is not refundable and non cancellable	
<b>BTO (8ww Delivery)</b>	
0 - 2 weeks	10% of the item value, min. 250€
2 - 6 weeks	50% of the item value
6 weeks	100% of the item value
<b>MTO (24 ww Delivery)</b>	
2-4 weeks	10% of the item value, min. 250€
4-8 working weeks	25% of the item value
9-15 working weeks	40% of the item value
16-18 working weeks	60% of the item value
After 18 working weeks	100% of the item value

Cancellation table for ETO orders with standard delivery (24 working weeks)	
3 weeks	5% PO Amount
5 weeks	10% PO Amount
8 weeks	50% PO Amount
15 weeks	75% PO Amount
After 15 weeks	90% PO Amount
Cancellation table for ETO orders with expedite delivery (<24 working weeks)	
2 weeks	5% PO Amount
4 weeks	10% PO Amount
6 weeks	50% PO Amount
10 weeks	75% PO Amount
After 10 weeks	90% PO Amount

### 4. LIMITATION OF LIABILITY

THE SELLER'S LIABILITY VIS A VIS THE BUYER, WHETHER CONTRACTUAL OR IN TORT OR FOR ANY OTHER REASON WHATSOEVER, FOR ANY DAMAGES, COSTS, EXPENSE OR OTHER LIABILITIES, DERIVING FROM BREACH OF THE AGREEMENT WILL BE LIMITED TO OVERALL PRICE OF THE PRODUCTS ACTUALLY PAID BY THE BUYER. IN ANY EVENT, THE SELLER WILL NOT BE LIABLE VIS A VIS THE BUYER FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES, LOSS OF PROFIT, COSTS OR DAMAGES (WHETHER OR NOT FORESEEABLE), SUCH AS, BUT NOT LIMITED TO, LOSS OF CONTRACTS AND BUSINESS OPPORTUNITIES. THIS PROVISION SHALL NOT BE CONSTRUED AS AN EXCLUSION OR LIMITATION OF THE SELLER'S LIABILITY IN CASE OF GROSS NEGLIGENCE OR WILFUL CONDUCT OR FOR DAMAGES DERIVING FROM DEATH OR PERSONAL INJURIES WHERE CAUSED BY GROSS NEGLIGENCE OR WILFUL CONDUCT OF THE SELLER, ITS EMPLOYEES, OR AGENTS.

### 5. INDEMNITY

The Buyer undertakes to indemnify and keep the Seller, its employees, representatives, consultants, agents, affiliated companies, successors and assignees, harmless from any claim, action, damage or liability (including legal expenses and indirect and consequential damages) deriving from injury or death or damages to any properties in connection with a conduct of the Buyer, its employees, representatives, consultants, agents, successors or subcontractors.

Place and date \_\_\_\_\_

OMB Offer Reference: \_\_\_\_\_

For acceptance of the aforesaid provisions

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Buyer