

General Conditions for Troubleshooting



1. **APPLICABILITY.** These general conditions for troubleshooting ("GCT") shall apply for any technical assistance, advice or other consultancy services, including engineering consultancy services or application engineering services ("Troubleshooting") provided by Alfa Laval by telephone or any similar digital solutions to a third party ("Recipient"), unless otherwise explicitly agreed in writing, and shall supplement Alfa Laval's standard terms and conditions located on the Alfa Laval website at: www.alfalaval.ca (the "Standard Terms").

The services to be performed by Alfa Laval hereunder shall be conclusively deemed to be subject to these GCT and the Standard Terms, which together supersede any provisions, terms and conditions contained in the Recipient's purchase order or other communication from Recipient to Alfa Laval. Alfa Laval's performance is expressly conditioned upon Recipient's acceptance of these GCT and the Standard Terms without modification.

In the event of any conflict between the GCT and the Standard Terms, the Standard Terms will govern and control in all respects.

2. **SCOPE OF TROUBLESHOOTING AND PERFORMANCE.** The scope, purpose and the intended use of the results of the Troubleshooting shall be determined by Alfa Laval, unless otherwise is agreed in writing. Alfa Laval shall incur no liability or obligation to the Recipient arising out of any other use or application thereof.

The Recipient shall, at its own expense, provide and carry out the work and measures needed on the Recipient's site, under or in connection with the Troubleshooting.

The Troubleshooting will be executed by Alfa Laval using the degree of skill and care required by customarily accepted good professional and technical practise. The obligations of Alfa Laval arising out of the provision of the Troubleshooting are strictly limited to the professionally competent performance of the Troubleshooting.

3. **TERM OF PROVISION, FEES AND PAYMENT TERMS.** Dates or periods for the provision of the Troubleshooting are approximate and are given for information purposes only. A delay in provision of the Troubleshooting shall not constitute a breach of contract and shall not entitle the Recipient to any remedy unless Alfa Laval has guaranteed a date for completion of the Troubleshooting in a written warranty which expressly modifies the provisions of these GCT or the Standard Terms. Fees and payment terms shall be agreed separately.

4. **CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any technical, financial and business information including without limitation, information related to the processes, product range and know-how, as well as documents, data or information relating to devices, methods, materials, apparatus, designs, research, yields and specifications in whatever form obtained by the receiving party from the disclosing party directly or indirectly.

Each party undertakes to hold all Confidential Information received from the other party in strict confidence and to limit the use thereof on a need to know basis for the fulfilment of Troubleshooting only. Confidential Information may only be disclosed to those representatives and employees of a party, or to the representatives and employees of an affiliate of Alfa Laval, to whom such disclosure is necessary for the purpose of the Troubleshooting.

Each party acknowledges and agrees to be liable for any breach of this confidentiality provision by its employees and representatives and for Alfa Laval, its affiliates, as if such breach was committed by the party itself.

This obligation of confidentiality shall not apply to information which was known by the receiving party (or any affiliate of Alfa Laval) or publicly known prior to the disclosure or becomes publicly known otherwise than as a result of a breach of this confidentiality provision.

5. **RECIPIENT'S WARRANTY.** The Recipient warrants that use by Alfa Laval of designs or instructions provided by Recipient or on behalf of the Recipient shall not cause Alfa Laval to infringe any patent, registered trademark, copyright, design right or similar rights protected by law.

Recipient shall defend, hold harmless and indemnify Alfa Laval against any claims of infringement and resulting damages and expenses, including, without limitation, attorney and other professional fees and disbursements, relating to the Troubleshooting covered by these GCT.

6. **INTELLECTUAL PROPERTY RIGHTS.** Intellectual property rights ("IPR"), includes patents, trademarks, design rights and copyrights and trade secrets. Alfa Laval shall retain control and ownership of all IPR, and know-how owned, controlled or possessed by Alfa Laval prior to the Troubleshooting.

Any result produced during or in connection with the Troubleshooting and any Intellectual Property rights, title and interest in or to such results shall be owned by Alfa Laval.

The Recipient hereby agrees to assign and transfer, without additional consideration, to Alfa Laval, all rights, title and interest in and to such results.

For the purpose of this clause, result(s) means, but is not limited to, ideas, inventions, discoveries, designs, methods and techniques that are discovered, conceived, reduced to practice or otherwise generated as a result of or in connection with any Troubleshooting.

7. **LIMITATION OF LIABILITY AND INDEMNITY.** Alfa Laval cannot and does not make any promises, guarantees or warranties, express or implied, that the Troubleshooting will have any influence on the product or process performance, Recipient's profitability or will be fit for a particular purpose. Alfa Laval further does not guarantee attainment of the intended result of the Troubleshooting.

This is a commercial agreement between business entities, and, except as otherwise specifically provided herein, all warranties, expressed and implied, are specifically denied and excluded by Alfa Laval to the full and maximum extent permitted by law.

If Alfa Laval fails to provide the Troubleshooting with required care and skill, the Recipient shall notify Alfa Laval thereof in writing within three (3) months from execution. Alfa Laval shall at its own expense use reasonably endeavours to re-perform the Troubleshooting that is not in conformity with the required degree of skill and care as stated above. Alfa Laval's obligations shall not extend to defects which are due to (i) the Recipient not complying with instructions given by Alfa Laval, (ii) the Recipient having provided Alfa Laval with incorrect or incomplete information, (iii) events outside the control of Alfa Laval, or (iv) which are caused by improper or abnormal use, installation, maintenance, operation or repairs by the Recipient, its employees or representatives. The above mentioned re-performance of the Troubleshooting is the Recipient's sole and exclusive remedy for Troubleshooting that fails to meet the foregoing standards.

Notwithstanding anything contained in these GCT, the Standard Terms or the purchase order, to the contrary or in tort,

- (i) Alfa Laval shall not be liable for any special, indirect or consequential damages or losses or purely financial losses of any kind such as, but not limited to, loss of profit, loss of revenue, loss of use, loss of production, costs of capital or costs, whether foreseen or foreseeable, arising out of or in connection with the provision of Troubleshooting or Alfa Laval's performance of its obligations under these GCT or the purchase order; and

- (ii) the aggregate liability of Alfa Laval for any cost, loss, expense or damage arising out of or in connection with Alfa Laval's or its sub suppliers/subcontractors' provision of the Troubleshooting or the performance under these GCT, the Standard Terms or the purchase order, shall never exceed a maximum cumulative amount equal to hundred (100) percent of the price for the Troubleshooting. Alfa Laval's liability is subject to that the parties have agreed upon payment for the performance of the Troubleshooting. If the Troubleshooting is performed by Alfa Laval as a free service, Alfa Laval has no liability against the Recipient whatsoever.

Alfa Laval shall however always remain fully liable for damages caused by wilful misconduct or gross negligence and for death or personal injury caused by Alfa Laval's negligence or fraudulent misrepresentation. In case the limitation of liability above in any way or in any circumstance is prohibited or restricted under applicable law the limitation above shall apply to the extent so permitted.