

## CONDITIONS OF SALE

OUR QUOTATION INCLUDES ONLY SUCH GOODS, ACCESSORIES, QUANTITIES AND WORK AS ARE SPECIFIED THEREIN.

### 1. GENERAL

These terms and conditions shall over-ride all other terms and conditions inconsistent herewith wherever contained. The Company shall not be bound by any variation, waiver or addition unless agreed in writing. Orders accepted by the Company may only be cancelled with the Company's written consent, and under no circumstances may goods supplied by the Company be returned to the Company by the customer.

### 2. VALIDITY

Unless previously withdrawn, quotations are open for acceptance within thirty days only from date thereof and are subject to confirmation at the time of such acceptance.

### 3. PRICES

- (a) If orders are accepted by the Company but it later transpires that the Company has insufficient information to enable it to complete the orders without further reference to the customer, the Company shall be at liberty to amend the contract price to cover any increase in cost which takes place after acceptance due to further information being given to the Company.
- (b) Any samples submitted must be returned to the Company's Works, carriage paid within one month from date of despatch, or paid for.

### 4. INSTALLATION AND COMMISSIONING

Where prices stated in quotations and/or orders accepted include installation and/or commissioning, and where by reason of any extension in the installation and/or commissioning period beyond that allowed in the quotation or contract caused by conditions on site outside the Company's control, the Company shall be entitled to charge the customer therefore at the same rate as the other work carried out under the contract. The customer shall at his own expense not later than 4 weeks before the date fixed by the company for the delivery of the goods ensure that the site is ready to receive the goods and that all the installation facilities recommended by the company have been provided. The customer will reimburse the company for any expenses and costs (including the cost of the storage of any goods) to the company arising from any non-compliance by the customer with the recommendations of the company as to installation facilities.

### 5. DRAWINGS etc.

All specifications, drawings, descriptions and illustrations contained in the Company's catalogues, price lists, and other advertisement matter are intended merely to present a general idea of the goods described therein, and none of these shall form part of any contract. Any drawings issued to the customer before or after acceptance of the order must be treated as confidential and shall not be copied or disclosed by the customer to any person (other than the customer's employees) firm or corporation. The said drawings and specifications shall remain the property of the company and shall be returned on demand. The said descriptions and illustrations shall not constitute a sale by description. The Company does not warrant or guarantee the goods are fit for any particular purpose unless such purpose has been drawn to the attention of the Company and it has agreed to the same in writing. The Company reserves the right to amend or alter drawings without prior notification.

### 6. ALTERATION OR CANCELLATION OF ORDER

Subject to the provisions of clause 7 no alteration can be made to the contract without the Company's written consent and then only subject to the following:- (

- a) If prices have not been agreed when the Company so consents, it reserves the right to halt production until agreement is reached.
- b) If agreement is not reached within 7 days of production halting as provided in sub-clause (a) above, the customer may elect either that the work continue in accordance with the contract as though such alteration had not been agreed or that all further work cease in which event the customer shall pay the Company for the work done and also make good any loss suffered by the Company.

### 7. IMMEDIATE ACTION

Where specific and immediate action is required by the customer the Company may elect to carry out such work without furnishing its written consent in which event the customer shall indemnify the Company against all additional costs thereby incurred and for such additional price as shall be agreed between the Company and the customer or in default of agreement within 14 days after completion of the work as shall be stated in writing to be a fair price by an independent arbitrator whose decision shall be final and binding on both parties.

### 8. WORK SUSPENDED

If work is suspended on the customers' instructions or for lack of instructions for a period of 30 days any loss occasioned thereby shall be recoverable from the customer by the Company. If the work is suspended for 30 days the contract may at the sole discretion of the Company be deemed to have been repudiated by the customer by the service of notice in writing to this effect on the customer who shall make good any loss suffered by the Company.

### 9. COMPLETION AND LIABILITY FOR DELAY

Any times quoted for delivery or completion are to date from receipt by the Company of a written order to proceed and of all necessary information and drawings to enable the Company to put the work in hand. While every effort will be made to deliver by the date quoted, no liability shall be accepted by the Company for failure to meet such delivery date. Time shall not be of the essence of the contract. Unless otherwise stated the price quoted is ex-Works.

### 10. FORCE MAJEURE

If, as a consequence of hostilities (whether war be declared or not), Act of God, fire, riots, civil commotions, strikes, lockouts, Government regulations or directions, breakdown of plant or shortage of materials or labour, stoppages or restraint of labour from whatever cause, partial or general, or for any other cause whatsoever arising otherwise than by the voluntary act of the Company, the Company shall be unable to fulfil its obligations under the contract or if the Company be so engaged under Government or priority directions as to prevent or delay work on other orders the Company shall be entitled as its option at any time on notice to the

customer to make partial deliveries only to determine the contract, without prejudice in any case to rights accrued in respect of deliveries already made.

#### **11. CLAIMS FOR DAMAGE OR SHORTAGE**

No claim for damage or shortage of delivery will be entertained by the Company unless the Company is notified thereof in writing within three days of receipt. The goods in respect of which any such claim is made shall be preserved intact as received for a period of fourteen days within which time the Company's servants or agents shall have the right to attend and investigate the claim. Any breach of this condition shall disentitle the Customer to any allowance in respect of the claim to which he may otherwise be entitled.

#### **12. STORAGE**

If forwarding instructions sufficient to enable the Company to despatch the goods are not received within fourteen days after the date of notification that they are ready for despatch, the customer shall take delivery or arrange for storage, the Company shall be entitled to arrange for the goods to be stored subject to the following conditions:-

- (a) That the storage is at the customer's risk and the Company shall not be held liable for any loss howsoever arising.
- (b) If the goods are stored on the Company's premises, it shall be entitled to charge a fee per week equivalent to 5 per cent of the purchase price, such fee to be paid monthly in arrears.

#### **13. TESTS**

The Company's products are carefully inspected and submitted to the Company's standard tests. If special test or tests in the presence of the customer's representatives are required, these unless otherwise agreed, must be made at the Company's works and will be charged extra. In the event of any delay on the part of the customer in attending such test after seven days' notice that the Company is ready, the tests will proceed in the customer's absence, and shall be deemed to have been made in the presence of the customer.

#### **14. PERFORMANCE**

Any performance figures given by the Company are such as the Company expect to obtain on test. The Company will however accept no liability if those figures are not obtained unless they are specifically guaranteed under an agreed sum, as liquidated damages, and a bonus subject to the recognised tolerances and rejection limits applicable to such figures. The Company is to be given reasonable time and opportunity to comply with the terms of the guarantee before the customer calls for payment of any sum in respect of such liquidated damages. The customer shall assume responsibility for the capacity and performance of the goods being sufficient and suitable for the customer's purpose.

#### **15. TERMS OF PAYMENT - TITLE - WARRANTIES**

- (a) Unless otherwise agreed payments shall be due at the end of the month following that in which the customer is sent notification by the Company that goods have been tested under Clause 13 or are ready for despatch. Any liability under these terms and conditions on the part of the Company is subject to payment of the price being made on the due date or before and the entire customer's other obligations to the Company under the contract being observed.
- (b) The title to all the goods shall remain vested in the Company until the full purchase price thereof shall have been paid to the Company.
- (c) Without prejudice to the generality of sub-clause (a) of this condition, the Company shall have no obligation under any warranty or guarantee expressly or impliedly given in these conditions or by general operation of law until the customer has paid the full purchase price.
- (d) Interest shall be payable by the customer to the Company on any balance of the purchase price unpaid after 30 days from the due date at the rate of 4% above the base lending rate for the time being of National Westminster Bank plc.

#### **16. GENERAL LIABILITY**

- (a) The Company's liability for any defect in or failure of the goods or parts thereof (whether subjected to special tests or not) or for loss, injury or damage attributable thereto shall be limited to making good by replacement or repair at the Company's option defects which under proper use and/or storage appear therein and which the company accept to have arisen solely from the Company's faulty design, materials or workmanship within a period of 3 years after the original goods shall have been despatched. This guarantee is given in lieu of express and implied warranties and conditions implied by law. Unless otherwise agreed defective parts must be promptly returned at the customer's expense to the Company's works unless otherwise arranged. Repaired or replacement parts will be delivered free to the customer. In no circumstances shall the Company be liable for direct, indirect or consequential or other loss or damage whether caused by alleged negligence on the part of the Company or its employees or otherwise howsoever arising out of defective goods.
- (b) In respect of components not manufactured by the Company, the customer shall receive only such guarantee (if any) as shall be given by the manufacturer or supplier thereof to the Company. (
- (c) All visits by the Company's Service Engineer are chargeable if failure of the equipment is due to any of the following causes.
  - (i) Mis-use (ii) Mis-application (iii) Undue wear and tear (iv) Negligence (v) Failure of expendable components.
- (d) Where goods supplied are in accordance with a design provided by the Customer the Company accepts no responsibility that such goods will operate or are suitable for any purpose.
- (e) The customer will indemnify the Company against all claims, damages, penalties, costs and expenses to which the Company may become liable as a result of work done in accordance with the customer's specification and without limiting the generality of the foregoing including all claims, damages, penalties, costs and expenses arising from the alleged infringement of any Letters Patent or Registered Design or from any other cause whatsoever.
- (f) The Company shall be under no liability in contract, tort or otherwise for any personal injury, loss or damage of whatsoever kind or howsoever caused or for anything done or omitted in connection with the goods made in accordance with the customer's designs or any work in connection therewith and the customer shall indemnify the Company accordingly.

#### **17. DETERMINATION OF CONTRACT**

If the customer shall make default in or commit a breach of this contract or of any other of his obligations to the Company, or if any distress or execution shall be levied upon the customer's property or assets, or if the customer shall make or offer to make any arrangement or composition with creditors or commit any act of Bankruptcy or if any Petition or Receiving Order in Bankruptcy shall be presented or made against him, or if the customer shall be a Limited Company and any Resolution or Petition to wind up such Company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a Receiver of such Company's undertaking property or assets or any part thereof shall be appointed the Company shall have the right forthwith to determine any contract then subsisting, and upon written notice of such determination being posted by him to the Customer's last known address any subsisting contracts shall be deemed to have been determined without prejudice to any claim or right the Company might otherwise make or exercise.

#### **18. LEGAL CONSTRUCTION**

This contract shall be construed in accordance with English Law.