

Terms & Conditions of Sale

1. GENERAL

- 1.1. All quotations whether verbal or in writing are made and all orders are accepted subject to the following Terms and Conditions, which shall govern the contract to the exclusion of any other Terms and Conditions subject to which any quotation is purported to be accepted or any order is purported to be made, by you.
- 1.2. No variation to these Conditions shall be binding unless agreed in writing between the Parties.
- 1.3. No waiver by us of any breach of the contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 1.4. If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
- 1.5. Any advice or recommendation given by us or its employees or agents to you or its employees or agents is followed or acted upon entirely at your own risk. We shall not be liable for any advice or recommendation as to the application or use of the goods, which is not confirmed in writing by us.
- 1.6. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us shall be subject to correction without any liability on the part of us.

2. ORDERS AND QUOTATIONS

- 2.1. Unless previously withdrawn, all quotations are open for acceptance for thirty days only from the date of the quotation, and are made subject to confirmation at the time of such acceptance.
- 2.2. No order submitted by you shall be deemed to be accepted by us unless and until confirmed in writing by our authorised representative. Each order so accepted shall constitute a separate contract.
- 2.3. The acceptance of our tender, or placing of an order by you, must be accompanied by sufficient information to enable us to proceed with the order forthwith, otherwise we may amend the tender prices to cover any increase in costs that has taken place after acceptance.
- 2.4. Any samples submitted by us must be returned to us, carriage paid, within one month of the date of despatch by us, or paid for.
- 2.5. No order which has been accepted by us may be cancelled by you except with our agreement in writing and on terms that you shall indemnify in full against all loss (including loss or profit), costs (including cost of all labour and materials used), damages charges and expenses incurred by us as a result of cancellations, in which case you shall pay our invoice within seven days of its date.

3. SPECIFICATION

- 3.1. All technical details, descriptive and forwarding specifications, illustrations, drawings and particulars of weights and dimensions issued by us are typical and approximate only and are intended to present a general idea only of the goods to which they refer, and none of them will form part of the contract.
- 3.2. We reserve the right to make any changes in the specification of the goods that are required to conform with any applicable safety or other statutory requirements or, where the goods are to be supplied to your specification, which do not materially affect their quality or performance.
- 3.3. If the goods are to be manufactured or any processes to be applied to the goods by us in accordance with the specification submitted by you, you shall indemnify against all loss, damages, cost and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any claim for infringement of any patent, copyright design, trademark or other industrial or intellectual property rights of any other person which results from our use of your specification.
- 3.4. Any specification supplied by us to you in connection with the contract of sale, together with the copyright, design rights or any other intellectual property rights in the specification shall be our exclusive property. You shall not disclose to any third party or use any such specification except to the extent that it is or becomes public knowledge through no fault of yours, or as required for the purpose of the contract.

4. PRICE

- 4.1. The price of the goods shall be as stated in our quotation or, where no price has been quoted (or a quoted price is no longer valid), the price listed in our published price list current at the date of acceptance of the order.
- 4.2. We reserve the right, by giving notice to you at any time before delivery, to increase the price of the goods to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alternation of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the goods which is requested by you, or any delay caused by your instructions or your failure to give us adequate information or instructions. In the event of such price variation, you shall be entitled to cancel any order for undelivered goods or unperformed Services. Any such cancellation must be in writing and within seven days of our notification of the price variation or within fourteen days before delivery or performance is due, whichever is the sooner.
- 4.3. The price is exclusive of any applicable value added tax, which you shall be additionally liable to pay to us.

4.4. Unless otherwise agreed in writing, all prices are exclusive of costs for delivery, postage, packing, administration and insurance, which will be additionally charged to you.

5. PAYMENT TERMS

- 5.1. Subject to any special terms agreed in Writing between you and us, we shall be entitled to invoice you for the price of the goods on or at any time after delivery of the goods and where the goods are to be supplied and are to be rendered by instalments we shall be entitled to render periodic invoices for goods delivered up to the date of each invoice.
- 5.2. We shall be entitled to recover the price of the goods (plus value added tax) notwithstanding that property in the goods has not passed to you.
- 5.3. Unless we have agreed some other payment period with you in writing you shall pay the price of the goods (less any discount to which you are entitled, but without any other deduction) strictly within thirty days of the date of our invoice. The time of payment of the price shall be of the essence of the contract. Payment can be made by bank transfer (BACS); our bank details are available on request, by cheque; made payable to West Controls Ltd or by credit or debit card. All credit or debit card payments are subject to an additional non-refundable 3% transaction charge.
- 5.4. If you fail to make any payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:
- 5.4.1. Cancel the contract or suspend any further deliveries to you;
 - 5.4.2. Appropriate any payment made by you to such of the goods (or the goods supplied under any other contract between you and us) as we may think fit (notwithstanding any purported appropriation by you);
 - 5.4.3. Charge you interest (both before and after any judgement) on the amount unpaid, at the rate of four per cent 4% per annum above the HSBC Bank plc base rate from time to time or the statutory rate of interest payable on judgement debts, whichever is the greater, until payment in full for all outstanding amounts due is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. RETURN OF GOODS

- 6.1. Except where goods are returned under a warranty claim, you shall not be entitled to return goods unless we have given its prior consent in writing and have issued to you a Returned reference (RMA) number.
- 6.2. Provided such consent has been given, incorrectly or other - ordered standard parts may only be returned within 30 days of the invoice date in unused condition. In such event a handling charge of 30% will be made on such items, with a minimum charge of £10.

7. DESPATCH AND DELIVERY

- 7.1. We will use best endeavours to despatch goods on the dates given but any such dates are approximate only and we shall not be liable for any delay in despatch and delivery however caused, neither shall any such delay entitle you to refuse or postpone acceptance of any subsequent delivery to be made under the terms of these Conditions.
- 7.2. Delivery of goods shall be made by us passing the goods to such carrier as shall be nominated by us with instructions to transport the goods to the delivery address specified by you.
- 7.3. Scheduled deliveries can only be agreed during a period commencing no sooner than one month and terminating no later than twelve months from the date of the order. At least thirty days written notice is required of any modification or suspension of scheduled deliveries. Any suspension will be limited to a maximum period of three months after which deliveries may be resumed at the former rate.
- 7.4. Where the goods are to be delivered or provided in instalments, each delivery shall constitute a separate contract and failure by us to deliver any one or more of the instalments in accordance with the Conditions or any claim by you in respect of any one or more instalments shall not entitle you to treat the contract as a whole as repudiated.
- 7.5. If you fail to take delivery of the goods or fail to give us adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond your reasonable control or by reason of our fault) then without prejudice to any right or remedy available to us, we may:
- 7.5.1. Store the goods until actual delivery and charge you for the reasonable costs (including insurance) of storage, and charge you also interest as provided in clause 5.4.3 above on the delayed payment until such payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); or
 - 7.5.2. Sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract; or
 - 7.5.3. Invoice you for all costs and expenses incurred by it in connection with the delay caused in the provision of the Services.
- 7.6. When the price quoted includes delivery we will repair or replace free of charge goods damaged in transit provided the carriers and ourselves receive written notification of such damage within three days of delivery, but not otherwise and provided the packaging and contents have been retained for inspection by carriers inspection. See Clause 13 for Export Conditions.
- 7.7. Shortage claims will only be considered if the carrier and we receive written notification of such shortage within three days of delivery, but not otherwise.
- 7.8. Once delivered no goods may be returned to us without our prior written consent.

8. FORCE MAJEURE

- 8.1. We shall not be liable for delay in performing or for failure to perform our obligations if the delay or failure results from any of the following:
- 8.1.1. Acts of God
 - 8.1.2. Outbreak of hostilities, riots, civil disturbance, acts of terrorism

- 8.1.3. The act of any government, or authority (including refusal or revocation of any licence or consent)
- 8.1.4. Fire, explosion, flood, fog or bad weather
- 8.1.5. Power failure, failure of telecommunications lines, failure or breakdown of plant, machinery or vehicles
- 8.1.6. Default of suppliers or sub-contractors
- 8.1.7. Theft, malicious damage, strike, lock-out or industrial action of any kind
- 8.1.8. Any cause or circumstances whatsoever beyond the Company's reasonable control.

9. RISK AND PROPERTY

- 9.1. Risk of damage to or loss of the goods shall pass to you at the time when we pass the goods to its carrier as set out in clause 7.1.
- 9.2. Risk of damage to or loss of the goods shall pass to you:
 - 9.2.1. In the case of goods to be delivered at our premises: at the time when we notify you that the goods are available for collection; or
 - 9.2.2. In the case of goods to be delivered otherwise than at our premises, at the time of delivery, or of you wrongfully fail to take to take delivery of the goods, the time when we have tendered delivery of the goods.
- 9.3. Notwithstanding delivery and the passing of risk in the goods, any other provision of these conditions, the property of the goods shall not pass to you until we have received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by us to you for which payment is then due.
- 9.4. Until such time as the property of the goods passes to you (and provided the goods are still in existence and have not been re-sold), we shall be entitled at any time to require you deliver up to the goods to us and, if you fail to do so forthwith, to enter upon any premises of you or any third party where the goods are stored and repossess the goods.

10. WARRANTIES AND LIABILITIES

- 10.1. No liability can be accepted for any failure of the goods to perform according to any performance figures given.
- 10.2. Subject to Clause 10.1 and to the Conditions set out in Clause 10.4 we warrant that the goods will be free from defects in material and workmanship for a period of six months only from the date of despatch.
- 10.3. The warranty in Clause 10.2 above is given subject to the following conditions:
 - 10.3.1. Any claim by you, which is based on any defect in the goods, shall be notified to us within seven days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable period after discovery of the defect. If you do not so notify us, you shall not be entitled to reject the goods and we shall have no liability for such defect, and you shall be bound to pay the price as if the goods had been delivered in accordance with the contract.
 - 10.3.2. Where any valid claim based on any defect in the goods is notified to us in accordance with clause 10.3.1 above, we shall be entitled to repair or replace the goods (or the part in question) free of charge or, at our sole discretion, refund to you the price of the goods (or a proportionate part of the price), but we shall have no further liability to you.
 - 10.3.3. We shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by you.
 - 10.3.4. In respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, improper storage, failure to follow the our instructions (whether oral or in writing), misuse or alteration or repair of the goods without the our approval.
 - 10.3.5. Where any seal has been broken or the manufacturer's trade mark or serial number has been removed, defaced, altered or tampered with unless otherwise agreed in writing.
 - 10.3.6. We shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the goods has not been paid by the due date for payment.
 - 10.3.7. The above warranty does not extend to parts, materials or equipment not manufactured by us, in respect of which you shall only be entitled to benefit of any such warranty or guarantee as is given by the manufacturer to us.
 - 10.3.8. The above warranty does not extend to any loss or damage sustained in transit.
 - 10.3.9. Any claim under the above warranty must be made in writing and the goods in question must be refunded to us within the six month period, suitably packaged, carriage paid and accompanied by proof of purchase and details of the nature of the alleged defect. We shall be under no liability under the above warranty if these Conditions are not complied with.
- 10.4. Except as expressly provided in these Conditions, all warranties, condition or other terms implied by statute or Common Law are excluded to the fullest extent permitted by law.
- 10.5. Except in respect of death or personal injury caused by our negligence, we shall not be liable to you by reason of any representation, or implied warranty, condition or other term, or any duty at Common Law, or under the express terms of the contract, or any consequential loss of damage, costs, expenses or other claims for consequential compensation whatsoever which arise out of or in connection with the supply of the goods or their use or resale by you, except as expressly provided in these Conditions.
- 10.6. We shall not be liable to you or be deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform, any of the our obligations in relation to the goods, if the delay or failure was due to any cause beyond the our reasonable control.

11. INDEMNITY

- 11.1. Save as is otherwise provided in the Conditions if any claim is made against you that the goods infringe or that their use infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, we shall indemnify you against all loss, damages, costs and expenses awarded against or

incurred by you in connection with the claim, or paid or agreed to be paid by you in settlement of the claim, provided that:

- 11.1.1. We are given full control of any proceedings or negotiations in connection with any such claim;
- 11.1.2. You shall give the us all reasonable assistance for the purposes of any such proceedings or negotiations;
- 11.1.3. Except pursuant to a final award, you shall not pay or accept any such claim, or compromise any such proceedings without our consent (which shall not be unreasonably withheld);
- 11.1.4. You shall do nothing which would or might vitiate any policy of insurance or insurance cover which you may have in relation to such infringement, and this indemnity shall not apply to the extent that you recover any sums under any such policy or cover (which you shall use its best endeavours to do);
- 11.1.5. We shall be entitled to the benefit of, and you shall accordingly account to us for, all damages and costs (if any) awarded in favour of you which are payable by or agreed with your consent (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
- 11.1.6. Without prejudice to any duty of you at common law, we shall be entitled to require you to take such steps as we may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which we are liable to indemnify you under this clause.

12. INSOLVENCY OF BUYER

12.1. This cause applies if:

- 12.1.1. You make any voluntary arrangement with your creditors or become subject to an administration order or become bankrupt to go into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 12.1.2. An encumbrancer takes possession, or a receiver is appointed, of any of your property or assets; or
- 12.1.3. A winding up petition (if a company) or a bankruptcy petition (if an individual) is presented against you; or
- 12.1.4. You cease, or threaten to cease, to carry on business; or
- 12.1.5. We reasonably apprehend that any of the events mentioned above is about to occur in relation to you and notify you accordingly.
- 12.1.6. That you are unable to pay its debts as defined in Section 123 of the Insolvency Act 1986.
- 12.1.7. Anything analogous to any of the foregoing under the law of any jurisdiction occurs.

12.2. If this clause applies then, without prejudice to any other right or remedy available to us, we shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to you, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. EXPORT CONDITIONS

- 13.1. Where the goods are supplied for export from the United Kingdom, the provisions of this Clause 13 shall apply in addition to and, in case of conflict, to the exclusion of the other Clauses hereof.
- 13.2. We reserve the right not to supply certain customers or countries and to require full details of intended use and final destination of the goods.
- 13.3. You shall be responsible for complying with any legislation or regulations governing the export of goods from the United Kingdom and importation of goods into the country of destination and for the payment of any duties taxes or other expenses in connection therewith.
- 13.4. We shall be under no obligation to give Notice under Section 32 (3) of the Sale of Goods Act 1979.
- 13.5. Unless otherwise agreed, payment is due on delivery. Goods shall be deemed to have been delivered when the invoice has been presented in the United Kingdom accompanied by appropriate documents of title.
- 13.6. We reserve the right to charge VAT at the ruling rate until you provide proof of export of the goods from the United Kingdom.
- 13.7. You shall be responsible for arranging for testing and inspection of the goods at our premises before shipment. We shall have no liability for any claim in respect of any defect in the goods which would be apparent on inspection and which are made after shipment, or in respect of any damage during transit.

14. ARBITRATION

14.1. Any dispute arising under or in connection with these conditions or the sale of the goods shall be referred to Arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Institution of Electrical Engineers.

15. LEGAL CONSTRUCTION

15.1. The contract shall be governed by the Laws of England.