

TERMS AND CONDITIONS OF QUOTATION AND SALE

These are the terms and conditions upon which the Seller sells and quotes for the sale of goods.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In these terms and conditions, unless the context otherwise requires:

- a. "Application" in relation to the Buyer means the Credit Application signed by the buyer which refers to these terms and conditions.
- b. "Buyer" means the person named in the relevant sales invoice or quotation.
- c. "Exclusive Goods" means any goods which are at the Buyer's request specifically ordered for the Buyer.
- d. "GST" means the goods and services tax as imposed by the GST legislation together with any related interest, fines or other chargers.
- e. "GST Amount" means any payment (or relevant part of that payment) multiplied by the relevant rate of GST.
- f. "Payment" means any amount payable under or in line with a quotation or sales invoice and includes the provision of any non-monetary consideration.
- g. "Person" includes an individual, the estate of an individual, a corporation, an association (incorporated or unincorporated) and a statutory or other authority.
- h. "Purchase Price" means the price for the goods set out in the quotation or sales invoice.
- i. "Quotation" means the form of quotation submitted by the Seller to the Buyer in which these terms and condition are deemed to be incorporated.

- j. "Sales Invoice" means the sales invoice issued by the Seller to the Buyer in which these terms and condition are deemed to be incorporated.
- k. "Tax Invoice" has the meaning given to that term by the GST Law.
- l. "Taxable Supply" has the meaning given to that term by the GST Law.

1.2 Interpretation

- a. Any special conditions specified on a quotation or sales invoice shall, to the extent that they are inconsistent with these terms and conditions, take precedence over these terms and conditions.
- b. Words importing the singular shall include the plural (and vice versa)
- c. If any provision of these terms and conditions is invalid and does not go to the essence of this agreement, these terms and conditions should be read as if that provision has been severed.

2. GOVERNING TERMS AND CONDITIONS

These are the only terms and conditions which are binding upon a Seller with the exception of those otherwise agreed in writing by the Seller which is imposed by a statute and which cannot be excluded. Any directions by the Buyer either verbal or written to procure goods and services from the Seller are deemed as acceptance by the Buyer of these terms and conditions, despite any provisions to the contrary in the direction or any purchase order issued by the Buyer.

3. TERMS OF PAYMENT

Payment of the goods is to be made prior to goods being dispatched from the Fluid Technology Australasian Pty Ltd facilities unless the Seller agrees other terms of payment in writing. Payment is to be in the form of clear funds received into the Fluid Technology Australasian Pty Ltd bank account or an irrevocable confirmed letter of credit. Credit terms may only be provided following the Buyers completion of credit application documentation.

- 3.1 When the Seller has provided expressed credit terms to the Buyer, payment to the Seller for goods delivered and accepted is due within 30 calendar days from the date the goods are invoiced. If the Buyer fails to make payment in accordance with this clause, all amounts owing by the Buyer to the Seller shall immediately become due and payable. Each outstanding amount shall bear interest at the rate of 10% per annum calculated on a daily basis from the day it falls due until the day it is paid.

4. INSPECTION AND ACCEPTANCE

The Buyer shall inspect all goods upon delivery and shall within 48 hours of delivery give notice to the Seller of any matter by which the Buyer alleges that the goods are not in accordance with the Buyer's order. Failing such notice, subject to any non-excludable condition implied by law, the goods shall be deemed to have been delivered to and accepted by the Buyer.

5. RETURNS

- 5.1 Goods to be returned must be approved by the Seller prior to the Buyer returning the goods. The Buyer agrees to bear all freight and delivery costs to the Seller unless specified separately in writing.

- 5.2 No returns for credits will be accepted where the order has been correctly executed.

- 5.3 Products specifically purchased to the Buyer's specification are not returnable.

6. QUOTATIONS

- 6.1 Unless previously withdrawn, a quotation is valid for 30 days or such other period as stated in it. A quotation is not to be construed as an obligation to sell but merely an invitation to treat, and no contractual relationship shall arise from it until the Buyer's order has been accepted in writing by the Seller.
- 6.2 The Seller shall not be bound by any conditions attaching to the Buyer's order or acceptance of a quotation unless such conditions are expressly accepted by the Seller in writing.
- 6.3 Every quotation is subject to and conditional upon obtaining any necessary import, export or other license.

7. SUPPLY

The Seller reserves the right to suspend or discontinue the supply of goods to the Buyer without being obliged to give any reason for its action.

8. PART DELIVERIES

The Seller reserves the right to make part deliveries of any order, and each part delivery shall constitute a separate sale of goods upon these terms and conditions. A part delivery of an order shall not invalidate the balance of an order.

9. GST

The parties agree that:

- 9.1 The purchase price is inclusive of GST.
- 9.2 All other payments have been calculated without regard to GST.
- 9.3 Each party will comply with its own obligations under legislation when calculating the amount of any payment and the amount of any relevant payment will be adjusted accordingly.
- 9.4 If whole or any part of payment is the consideration for a Taxable Supply (other than for the payment of the Purchase Price) for which the payee is liable for GST, the payer must pay to the payee an additional amount equal to the GST amount either concurrently with that payment or otherwise as agreed in writing.
- 9.5 Any reference to a cost or expense excludes any amount in respect of GST forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit; and the payee will provide to the payer a Tax Invoice.

10. PASSING OF OWNERSHIP AND RISK

- 10.1 Goods supplied by the Seller to the Buyer shall be at the Buyer's risk immediately upon delivery to the Buyer, into the Buyer's custody or at the Buyer's discretion (whichever happens first).
- 10.2 All Goods dispatched from Fluid Technology Australasian Pty Ltd are not insured to the place of destination unless otherwise agreed in writing for each individual consignment.

- 10.3 Ownership of the goods supplied by the Seller to the Buyer shall not pass to the Buyer until those Goods have been paid for in full.

- 10.4 Until the goods have been paid in full the Buyer shall store the goods in a manner which shows clearly that they are the property of the Seller and may use the goods in the ordinary course of its business.

- 10.5 The Buyer and the Seller agree that the provisions of this clause apply notwithstanding any arrangement under which the Seller grants credit to the Buyer.

11. INSTALLATION

The Seller's quotation or sales invoice is made on a supply only basis, installation and commissioning (if any) is at the expense of the Buyer unless otherwise specified in writing by the Seller.

12. DIMENSIONS, PERFORMANCE DATA AND OTHER DESCRIPTIVE DETAILS

- 12.1 Photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a quotation, descriptive literature or catalogue approximate the goods offered but may be subject to alteration without notice.
- 12.2 Any performance data provided by the Seller or a manufacturer is an estimate only and should be construed accordingly.
- 12.3 Unless agreed to the contrary in writing the Seller reserves the right to supply an alternative brand or substitute product when necessary.

13. SHIPMENT AND DELIVERY

13.1 Quoted delivery times are approximate and effective from the time the Seller is in receipt of a technically clear order. Delays in receipt of technical clarification can result in delayed delivery. The Seller is not liable for any damages consequential or otherwise caused by late delivery.

13.2 Upon acceptance of an order the Seller will seek confirmation of the period of shipment or delivery. If any variation has occurred in the quoted period the Seller will notify the Buyer. Unless the Buyer objects in writing within 7 days of that notification to the Buyer, the period of shipment or delivery notified to the Buyer will be the contractual period for shipment or delivery.

13.3 Delivery is ex warehouse.

14. MANUFACTURERS CHANGES

If the Seller is acting as an agent for a manufacturer or supplier, the Seller shall not be liable for any alteration or variation in the goods made by the manufacturer or supplier.

15. CURRENCY

Pricing of Goods is subject to adjustment (increase) if there is any adverse exchange rate fluctuation with the Australian Dollar and any of the following currencies, Euro, Swiss Francs or United States Dollar. The currency exchange rates shall be determined by the telegraphic buy rate of the Westpac Banking Corporation.

16. CONTINGENCIES

Any charge, sales tax or other expenditure which is not applicable at the date of quotation or sales invoice but which is subsequently levied on the Seller as a result of the introduction of any legislation, regulation or government policy shall be to the Buyer's account.

17. CHARGES BEYOND POINT OF DELIVERY QUOTED

Unless otherwise agreed in writing, if the Seller prepays freight, custom and import duties (if any) landing and delivery charges and all other charges in connection with the shipment and delivery of goods, then such charges shall be to the Buyer's account.

18. FORCE MAJEURE

If the performance or observance of any obligation of the Seller is prevented, restricted or affected by reason of a force majeure event including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of the Seller, the Seller, in its absolute discretion give prompt notice of that cause to the Buyer. On delivery of that notice the Seller is excused from such performance or observance to the extent of the relevant prevention, restriction or effect.

19. DEFAULT OF BUYER

If these terms and conditions are not strictly observed by the Buyer, the Seller in its absolute discretion, refuse to supply to the Buyer and the seller shall not be liable to the Buyer for any loss or damage the Buyer may sustain as a result of such refusal. The costs of collection of any moneys are due and payable by the Buyer, including fees of any mercantile agent or lawyer engaged by the Seller.

20. BUYER'S CANCELLATION

Unless otherwise agreed in writing, the Buyer shall have no right to cancel an order which has been accepted by the Seller. If a right of cancellation is expressly reserved to the Buyer, such right of cancellation must be exercised by notice in writing not later than 7 days following the Sellers receipt of the Buyers Purchase Order. If any deposit monies were paid by the Buyer, these monies will be forfeited to the Seller. Despite the cancellation of any order for any reason the Buyer must still purchase any goods ordered which were procured by the Seller before such cancellation, unless otherwise agreed in writing by the Seller.

21. WARRANTY AND LIABILITY OF SELLER

21.1 The Seller warrants that the goods, whilst they remain in the possession of Buyer, will under proper use, be free from defects solely due to faulty workmanship and materials during a period of 12 months from consignment, to the extent that upon authorised return to Seller during that period of any part of the goods covered by this warranty Seller will if it finds such part to be so defective, at its option repair such part or supply a replacement part provided that:

- a. The goods or any part are not without Seller's consent altered, repaired or subjected to any technical attention by any person other than Seller's authorised representatives.
- b. The above terms may at Seller's option be varied or replaced by specific warranty conditions issued in writing in respect of particular products.
- c. The warranty does not cover damage due to normal wear and tear, improper installation, misuse or neglect or where goods have been subjected to operating or environmental conditions in excess of maximum values specified.

21.2 The Seller makes no warranty, representation or guarantee regarding the suitability of its products for any particular purpose, nor does the Seller assume any liability arising out of the use or application or these products. Seller specifically disclaims any and all liability, including and without limitation incidental and consequential damaged.

21.3 The Seller makes no express warranties under this agreement except that to the extent that the goods supplied are covered by the manufacturer's warranty, the Seller will pass onto to the Buyer the benefit of this manufacturer's warranty.

21.4 Upon discovery of any defect in the goods supplied by the Seller the Buyer shall immediately notify the Seller in writing. The Buyer shall not carry out any remedial work to allegedly defective goods without first obtaining the written consent of the Seller to do so.

21.5 The Seller does not exclude or limit application of any provision of any statute where to do so would contravene that statute or cause any part of this clause to be void.

21.6 The Seller excludes all conditions, warranties and terms, whether expressed or implied by law or otherwise in respect of the goods which may apart from this clause be binding upon the Seller, except any implied conditions and warranties the exclusion of which would contravene any statute or cause this clause to be void.

21.7 To the extent permitted by statute, the liability, if any, of the Seller arising from the breach of any implied conditions or warranties in relation to the supply of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, shall at the Sellers option be limited to:

- a. The replacement of the goods or resupply of the goods by the Seller
- b. The repair of the goods

21.8 The Seller excludes all liability to the Buyer in negligence for acts or omissions of the Seller, its employees, agents and contractors and all liability to the Buyer contract for consequential or indirect loss or damages, arising out or in connection with this Agreement.

21.9 The Buyer expressly acknowledges and agrees that it has not relied upon advice given by the Seller, its agents or employees in relation to the suitability for any purpose of goods or materials supplied by the Seller.

21.10 To the extent permitted by statute, all warranties (whether express or implied, and whether given by the Seller, the manufacturer or a third party) and any obligations of the Seller to repair or replace any goods are void in respect of any goods which the Buyer tampers with or alters.

22. ALTERATION TO CONDITIONS

The Seller may at any time and from time to time alter these terms and conditions.

23. GOVERNING LAW

These terms and conditions and any contract including them shall be governed by and constituted in accordance with the laws of the State of Queensland and the Seller and Buyer submit to the non-exclusive jurisdiction of the courts of Queensland.

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