

# Automatic Control Company Pty Ltd

## TERMS AND CONDITIONS

### 1. Interpretation

1.1 In these conditions A.C.C means Automatic Control Company Pty Ltd and "Buyer" means the person, or body firm or Company with whom A.C.C. enters into a contract for the sale of goods and/or the supply of services.

### 2. Incorporation

2.1 These conditions govern every contract for the sale of goods and/or supply of services by A.C.C. to the buyer and, except as modified in accordance with clause 2.2, constitute all the terms and conditions agreed between them to the exclusion of all other terms and conditions.

2.2 No modification to these conditions, whether put forward in buyers purchase order, specification or otherwise, shall bind A.C.C. unless agreed to in writing by its authorised employee.

### 3. Quotations and brochures

3.1 Any quotation given by A.C.C. is a mere invitation to treat and does not constitute a contractual offer. All quotations lapse thirty- (30) days after issue but A.C.C. may vary or withdraw a quotation at any time

3.2 A.C.C. brochures and catalogues are published as sources of general information only and do not constitute contractual arrangements binding A.C.C.

### 4. Orders

4.1 Orders for goods or services shall not be binding upon A.C.C. until accepted in writing by its authorised employee. A.C.C. reserves the right to accept orders in whole or in part. Any part order not accepted in this manner prescribed shall be regarded as having been refused.

4.2 Once A.C.C. have accepted an order buyer may not alter or modify it unless the written consent of A.C.C. an authorised employee is first obtained

### 5. Price and payment

5.1 Prices quoted in published price lists or by A.C.C. representatives are subject to change without notice and are not binding on A.C.C.

5.2 All prices expressed are exclusive of any applicable freight charges, GST and Customs Duty. These charges shall be added to the amount to be paid by the buyer.

5.3 If buyer has an approved credit account with A.C.C. goods and services supplied must be paid for within Thirty (30) days of the date of invoice or Thirty (30) days of date of shipment, whichever occurs first. Where buyer is overdue with any payment or A.C.C. is in receipt of credit referee which it regards as unsatisfactory, A.C.C. reserves the right to change buyer to a C.O.D account. Where buyer has a C.O.D. account all goods and services shall be paid for before they are supplied.

5.4 Without prejudice to any other remedy, A.C.C. reserves the right to charge a default charge on any overdue payments at an annual rate equal to 2% above the rate notified by Westpac Banking Corporation from time to time as being that Bank's indicator ending rate.

### 6. Delivery risk

6.1 Risk in the goods will pass to the buyer Ex A.C.C, warehouse upon the goods being placed upon the vessel or vehicle, which is to deliver the goods to the buyer. Buyer shall be responsible for arranging delivery and insurance of the goods. A.C.C. shall not be liable to buyer in the event of any failure to arrange insurance.

6.2 While A.C.C. shall use all reasonable endeavours to meet agreed delivery dates. A.C.C. shall not be liable to buyer for any loss or damage whatsoever should it be delayed or prevented from delivering goods, supplying services or otherwise performing any of its contractual obligations due to any cause or, circumstance of any kind whatsoever. In the event of any delay in delivery or supply as aforesaid the due date shall be deferred for a period equal to the time lost by reason of the intervening cause or circumstance.

6.3 A.C.C. reserves the right to deliver in instalments and all such instalments, when separately invoiced, shall be paid for without regard to the delivery of subsequent instalments

6.4 Subject to clause 6.2, delivery dates shall not be varied once they have been agreed, without A.C.C's prior written consent. Should A.C.C. agree to postpone delivery the goods in question shall be stored at buyers risk and A.C.C. reserves the right to impose a weekly storage charge equal to 1 % of the net invoice value. Where delivery is postponed for more than three months, any fixed confirmed prices may be increased by A.C.C. at A.C.C.'s discretion, to the current A.C.C. list price.

### 7. Retention of title

A.C.C. shall retain title to goods supplied to buyer until it has received payment in full. Goods belonging to A.C.C. shall be stored so that they are identifiable as such. That A.C.C. retains title to goods supplied until they have been paid for shall not effect its right as an unpaid seller. Furthermore if payment is overdue or buyer enters into bankruptcy, liquidation, a composition

with its creditor, has a receiver or manager appointed over all or any part of its assets or becomes insolvent, A.C.C. shall be entitled, without prejudice to any other remedy, to repossess goods belonging to it and to enter any Premises without notice, for this purpose.

### 8. Claims

8.1 Buyer shall inspect all goods supplied on delivery. A.C.C. shall not be liable for shortages or other errors in delivery unless buyer submits a written claim to A.C.C. within seven (7) days of the delivery to which the claim relates.

### 9. Cancellation and returns

9.1 Buyer may return goods supplied for a credit against subsequent orders within seven (7) days of delivery provided the following conditions are satisfied

A.C.C's written approval has first been obtained and the invoice number and date have been quoted for a reference.

The goods are returned in their original condition freight paid, into store and buyer agrees to pay to A.C.C. a minimum handling charge equal to 15% of the amount paid for the goods.

9.2 Contractual performance is delayed or prevented due to any cause or circumstances cancellation by ACC under this clause 9.2 shall be without prejudice to ACC's right to recover payment from buyer for goods and services previously supplied.

9.3 In the event of the buyer requesting a cancellation of an order the buyer agrees to pay ACC a minimum fee of 15% of the amount that otherwise would have been invoiced under the said order.

### 10. Warranty

A.C.C acts as an agent for the various manufacturers and as such warranty given is that of the manufacturer. The buyer shall immediately notify A.C.C. in writing upon discovery of any defect in the goods. The cost of removal and refitting of any parts shall not be borne by A.C.C.. The buyer shall not carry out and remedial work to alleged defective goods without first obtaining the written consent of A.C.C so to do. Any parts, in respect of which claims are made, must be forwarded carriage paid to A.C.C.'s premises. Any parts recognised as defective become the manufacturers property. The expenses of packing, freight, customs duties and import costs in connection with replacement deliveries shall be borne by the buyer The Warranty is cancelled, without reinstatement of any implied warranties, if the goods in question have been altered by the buyer or a third party or by the fitting into them of any parts of other origin or if the manufacturers instructions as to operate or use have not been complied with and the warranty does not cover any damage due to negligent or improper operation, storage or transport. Claims arising under this warranty will only be recognised if they are notified without delay to A.C.C. after the defect has been discovered. In no circumstance will A.C.C. be liable for any loss or damage caused by any goods, or any defect therein nor for consequential loss of damage whatsoever. All foregoing shall be similarly applicable to any supplies made in or towards settlement of any claim resulting from this warranty.

The buyer expressly acknowledges and agrees that A.C.C. is not liable for any advice given by its agents or employees in relation to the suitability for any purpose of goods or material supplied by A.C.C. and all such advice relied upon is at the buyer's risk.

### 11. Non availability and substitutes

11.1 While every effort shall be made to fulfil buyer's orders for goods, A.C.C. shall not be liable for any loss or damage arising through non-availability of stock

### 12. Law and Jurisdiction

12.1 The construction, validity and performance of any contract incorporating these conditions, shall be governed by the laws of the state of Queensland and buyer shall submit to the jurisdiction of the courts of the state

### 13. General

13.1 All clerical errors are subject to correction and shall not bind A.C.C.

No employee of A.C.C. is authorised to bind A.C.C unless express written notice to that effect is given by an authorised person of A.C.C.

The invalidity or enforceability of any provision of these conditions shall not effect the validity or enforceability of the remaining provisions.

A.C.C. failure to enforce, at any time or for any period of time any terms of the contract incorporating these conditions shall not constitute a waiver of such term and shall in no way affect its right later to enforce it.

Headings are included for ease of reference and do not form part of/or affect the interpretation of these conditions.

These conditions bind A.C.C. buyer and their respective successors and assigns.