

## PRACTICAL CONTROL SOLUTIONS P/L-CONDITIONS OF SALE

1. **General** - These Conditions of Sale apply to the sale of items and equipment included in the current issues of the Practical Control Solutions Pty Ltd (the Company) price lists, or where a quotation is made, they shall form part of that quotation. No variation or cancellation of any of these Conditions of Sale shall be binding on the Company unless assented to by the Company in writing.
2. **Precedence** - In the event of conflict between these conditions and those which may be included in, or implied by, any document forming part of any enquiry, specification, quotation, order or contract, then these conditions prevail except in as far as they are expressly varied by the Company in writing or otherwise by law.
3. **Acceptance** - A quotation is not to be construed as an offer or obligation to sell and the Company reserves the right to accept or reject any orders received.
4. **Validity** - Unless otherwise stated, quotations are open for acceptance for a period of 30 days from date of quotation and thereafter are subject to confirmation before acceptance.
5. **Cancellation or variation** - A contract may, at the Company's option, be terminated in the event of insolvency of the purchaser or of execution being levied against any of the goods of the purchaser or of the purchaser being placed in liquidation, whether voluntarily or otherwise.

An order may be varied only if such variation is accepted by the Company in writing and any variation or cancellation by the purchaser (whether or not it has been agreed to by the Company) may only occur on terms which will provide for the Company to be indemnified by the purchaser against any loss or damage.

6. **Information and drawings** - All descriptive specifications, illustrations, drawings, data, dimensions and weights furnished by the Company or otherwise contained in catalogues, price lists and other advertising matter of the Company are approximate only and are intended to be by way of general description of the goods and shall not form part of the contract unless certified by the Company in writing, in which case, they shall be subject to recognised tolerances.

The Company is not deemed to have agreed to comply with any specifications and drawings referred to in any order unless such specifications and drawings have been produced to the Company prior to the delivery of goods and signed by the Company.

7. **Performance** - Any performance figures given by the Company are based on the Company's experience and are such as the Company expects to obtain on test. The Company is under no liability for damages for failure to attain such figures unless the Company has specifically guaranteed them in writing, subject to recognised tolerances applicable to such figures.
8. **Prices**
  - (a) All prices are subject to change without notice and all orders are accepted by the Company on the condition that they will be invoiced at the prices ruling at the date of dispatch. All prices are strictly net unless where otherwise stated.
  - (b) Goods are sold on a Free on Transport (FOT) basis. Where the purchaser requires freight to be prepaid, all expenses will be to their account at cost.
  - (c) All prices shown in published catalogues or price lists are recommended selling prices only and there is no obligation on the part of any reseller to maintain the same prices.
  - (d) The quotation includes only such goods as specified in it. Goods offered ex stock are subject to prior sale and delivery time quoted is without engagement
9. **Sales tax or GST** - The prices quoted do not include sales tax or GST unless specifically stated.

Sales Tax or GST at the appropriate rate is added to the price unless exemption by tax exemption number or tax exemption certificate, if applicable, is shown on the order at the time of purchase.

For the purposes of these conditions GST means any consumption tax or other like tax whether at the point of sale or on some other specified occurrence and includes a goods and services tax, a broad based consumption tax or value added tax.

10. **Minimum order values** - The following minimum values will apply to orders supplied by the Company:
  - (a) \$50.00 for goods collected and charged at our trade sales counter. If goods are collected and paid for in cash, no minimum charge will apply.
  - (b) \$100.00 for goods delivered to a customer's premises

In both cases, minimum values are based on the list prices of goods.

11. **Delivery charge** - A delivery charge per order, charged at the rate applicable at the time of delivery, will be applied on all orders which are delivered to a customer's premises. This amount will be shown as a separate item on all invoices.

The delivery charge will not be applied to the supply of equipment back orders from an original order, which is beyond the control of a customer.

12. **Terms of payment** - Net cash 30 days unless otherwise stated. When payments are made contingent upon delivery, erection or test, and any of these stages are delayed to suit the purchaser's wishes or convenience, or by reason of unreadiness of site foundations, or other works - such as delivery of material being furnished under separate contract - payments are to be made within the time in which they ordinarily would have been made had there been no such delays, the material being, if necessary, stored at the purchaser's risk and expense.

Should the purchaser delay in respect of any payment due to the Company then the Company shall have the right in addition to all other rights at law to charge interest on the overdue amount at such rate as is charged to the Company by the Company's bankers for overdraft accommodation and calculated from the date of invoice to the actual date of full and final payment. Payment will be credited first against interest accrued. The Company may also defer or cancel any outstanding balance of an order and may enter upon the purchaser's premises or elsewhere as provided in Clause 17.

13. **Packing** - Unless stated otherwise in the quotation, the price quoted includes packing in accordance with the Company's standard practice. Any other packing requested by the purchaser or deemed necessary by the Company will be charged for in addition to the price quoted.
14. **Delivery** - The delivery period quoted commences from the date the Company receives sufficient information to proceed with supply or from the date the Company receives the purchaser's written order, whichever is the later date. Quoted delivery dates are subject to confirmation when placing the order. The Company is not in any event liable to the purchaser for any loss of profits or any other consequential loss or damage caused to the purchaser by any delay in the delivery or any non-delivery of the goods or any part of them.

Claims for shortages in deliveries must be advised to the Company in writing within 7 days of receipt of goods.

15. **Storage** - If delivery is delayed for any reason beyond the Company's reasonable control for a period of 14 days after the date on which the purchaser is notified that the contract goods or any completed items forming part thereof are ready for delivery, the risk of such goods shall forthwith pass to the purchaser, and the Company is entitled to present invoices to the purchaser for payment in accordance with clause 12. If the purchaser fails to take delivery of the goods in accordance with the preceding sentence, the Company may arrange suitable storage of such goods at the Company's premises or elsewhere and all costs of or incidental to such storage must be borne by the purchaser. The purchaser must, on demand, pay to the Company all costs of storage, insurance, demurrage, handling and other charges incidental to such storage.

If delivery is delayed for any reason beyond the reasonable control of both the Company and the purchaser after the period stated in the preceding paragraph of this clause, the costs of storage, insurance, demurrage, handling and other charges incidental to such storage shall be shared equally between the parties and the risk in the goods remains with the Company. The Company is entitled to present invoices to the purchaser for payment in accordance with clause 12 for half the quoted value of the goods ready for delivery, the balance being invoiced when delivery is effected.

**16. Damage or loss in transit** - Where carriage is the responsibility of the Company, the Company will repair or may replace free of charge contract goods lost or damaged in transit to the contractual point of delivery provided written notice of such loss or damage is given to the Company within 3 days of delivery or expected delivery, or within such times as will enable the Company to comply with the carrier's conditions of carriage as affecting loss or damage in transit.

**17. Property and risk** - Notwithstanding that the goods are in whole or in part at the risk of the purchaser, the property in and legal title to the goods remains with the Company until they and all other goods previously supplied by the Company whether under this or any other contract (collectively referred to as the goods) have been paid for by the purchaser.

Until the goods have been fully paid for:

- (a) The Company may by its servants and agents enter the purchaser's premises or elsewhere at any time without notice to inspect the goods
- (b) The purchaser must store them including other goods into which the goods have been incorporated, in such a manner as to show clearly that the goods are the property of the Company
- (c) The purchaser must deliver up the goods to the Company on demand, and in default of delivery, the Company may by its servants and agents enter the purchaser's premises or elsewhere at any time without notice to repossess the goods
- (d) To the extent (if any) that the property in and legal title to the goods has passed to the purchaser by operation of law, then the Company has a specific lien over the goods until paid for in full
- (e) The purchaser is not entitled to make any deductions from the price of the goods for any set off or counter claim.

Where carriage is the responsibility of the Company, this obligation shall be subject to the provision of clause 16. The whole of, this clause applies notwithstanding any arrangements under which the Company grants credit to the purchaser.

**18. Credits** - Standard products as listed in the published price lists of the Company may be returned for credit, provided the goods:

- (a) are returned within 7 days of delivery, free to the Company's warehouse
- (b) are accompanied by a delivery docket stating the Company's original invoice number - and a reason for the return
- (c) are returned in an unsoiled, undamaged and resaleable condition, in their original packing

No goods will be accepted for return under any circumstances (other than for reasons of wrong delivery or because they are faulty) unless the net value is greater than \$50.00

Goods will not be accepted for return after 7 days from date of delivery unless by prior arrangement, and with the payment of a restocking fee of 15% of original net invoice value, or \$30.00 net, whichever is the greater.

If goods have been supplied by the Company on a built to order or indent only basis, the Company will not accept them for return unless they are faulty or have been wrongly delivered.

**19. Loans & hire** ~ Any equipment loaned or hired out by the Company is not returned to the Company within the specified loan or hire period

are deemed as sold, and the list price of the equipment becomes due and payable by the recipient.

Any equipment loaned or hired out by the Company must be returned by the recipient in the original packing, and in original condition - fair and reasonable wear and tear expected.

Any returned equipment found damaged or defective, due to reasons not covered by the Company's standard warranty provisions, results in the recipient being charged for repair charges, or the cost of the equipment, whichever is the lesser.

Return freight, if applicable, will be prepaid by the recipient.

**20. Copyright, licences & patents and industrial property**

(a) Copyright licences, patents and design rights for all engineering design, software and hardware supplied by the Company remain the property of the Company and shall not be available in any form to third parties, nor re-used by the purchaser, unless agreed to in writing by the Company.

Any software supplied by the Company may be used by the purchaser only on the CPU or equipment configuration specified.

(b) The purchaser must not alter, remove, or in any way tamper with any of the trade or other marks or numbers of the Company or its principals attached to or placed on the goods.

**21. Training** - Where training forms a part of the supply of goods and services, such training will be charged at a rate per 8 hour day (or part thereof) for a specified number of trainees, and cover provision of training equipment, training instructor and course handouts. Where training is carried out external to the Company's offices, the cost of transporting equipment and instructor's air fares, hire car for site transportation, meals, accommodation and miscellaneous out of pocket expenses will be charged at cost. All travel time and stand-by / waiting time will also be charged in accordance with the labour rate ruling at the time.

**22. Engineering assistance** - Any engineering or technical assistance provided by the Company, not already covered by any other clause herein or other condition of contract as applicable, will be charged at the labour rate ruling at the time, (including travel and stand-by/waiting time), plus expenses at cost. Applicable expenses include, but are not limited to, those described under clause 21 for external training. Any required miscellaneous materials purchased by the Company will be charged at cost, plus 25 per cent.

**23. Warranty** ~ All goods which are of the Company's own manufacture or of the Company's principal's manufacture and supplied by the Company, are guaranteed against faulty workmanship, materials or design for a period of twelve months from the date of dispatch after which all liability on the part of the Company ceases. Any repairs that the Company undertakes are guaranteed for a period of twelve months in respect only of the components that are the subject of the repair. The Company's liability for any loss, injury or damage shall be limited to making good by replacement or repair of defects which appear under proper use provided that the Company is permitted to inspect defects before replacement, the defective components being returned free into the Company's store. Any unauthorised repairs or alterations to the equipment invalidates this warranty. In the case of goods not of the manufacture of the Company or of its principals, the Company undertakes that it will, if requested in writing by the purchaser, make all reasonable endeavour in assisting the purchaser to obtain from the manufacturer the benefit of any guarantee or warranty which the manufacturer may have expressly given as to the quality or fitness for any purpose of the goods, except as may otherwise be provided for by law. The fulfilment of this undertaking constitutes the Company's sole liability for any loss of profits or consequential loss or damage suffered by the purchaser in consequence of any defect in material or workmanship of such goods or the failure of the goods to perform in accordance with any performance figure stated. There are no expressed or implied warranties given by the Company in respect of Proprietary software. The only warranty that is applicable is the

warranty supplied by the owner of the software and the purchaser must comply with all reasonable conditions of such warranty.

This warranty does not exclude any condition or warranty implied by the Trade Practices Act 1974 or separate State Laws and is in addition to any other right that the original purchaser or any subsequent purchasers may have at law.

24. **Indemnity** - The purchaser must comply with all instructions of the Company in relation to the fitting, installation and use of the goods. Notwithstanding such compliance, the purchaser must keep the Company indemnified against all claims expenses and liabilities of whatever nature including, without limiting the generality of the foregoing, claims for death, personal injury, damage to property, and consequential loss, including loss of profit which may be made against the Company or which the Company may sustain pay or incur arising out of the manufacture or sale of the goods, unless the same is directly and solely attributable to any breach of contract or by negligence of the Company or its authorised employees or agents.
25. These conditions are to be so construed as not to infringe any State or Commonwealth legislation, and if necessary they shall be read down to such extent necessary to ensure they do not so infringe. In the event that any conditions cannot be read down so as not to infringe it shall be deemed to be void and severable.