

TERMS AND CONDITIONS OF TRADE

SYSTEM CONTROL ENGINEERING NZ LTD

These are the Terms and Conditions of Trade of SYSTEM CONTROL ENGINEERING NZ LTD (hereafter referred to as SCE) and they apply to all SCE Sale of Goods Contracts. Any order placed with SCE constitutes agreement by the Applicant and/or the Customer to be bound by these terms. Any additional or different terms stipulated or stated by the Applicant or Customer in any communication with SCE (including an order) are hereby objected to and will not bind SCE unless SCE agrees in writing. No Sales Person, Representative or Agent is authorised by SCE to give any guarantee, warranty or representation in addition to, or contrary to these terms. In any event, receipt of Goods by the Customer (or any other party as the Customer directs) constitutes the applicant and/or the Customer's Agreement to be bound by these terms.

1 PRICE AND PRICE VARIATION

- 1.1 Prices quoted are excluding GST unless otherwise stated. Unless otherwise agreed in writing, the price of the Goods will be the current price on the day of delivery of the Goods. Prices do not include any delivery surcharges.
- 1.2 SCE shall be entitled to adjust any price quoted from time to time and the Customer agrees to pay any such adjusted price to take account of variations in the cost to SCE of carrying out the whole or any part of the Contract arising from any of the following:
- Delays in delivery or installation of the Goods as a result of instruction or lack of instruction from the Customer, the Customer's failure or inability to fulfill the obligations under the Contract or any action or inaction by the Customer or other circumstances beyond SCE's control;
 - Variation in the cost of SCE acquiring the Goods directly or indirectly on account of changes in rates of freight and transport costs, insurance, customs duties, taxes, existing tariff classifications or any variation in currency exchange rates;
 - Variations in the cost of rates of all statutory Government or local Government or Governmental authority charges and obligations; or
 - Any correction of errors or omissions on the part of SCE or any of its representatives.

2 GST

- 2.1 All Goods and Services sold are subject to Goods and Services Tax, as applicable and at the prevailing legislated rate.

3 PAYMENT

- 3.1 The Purchase Price shall be paid to SCE at its address by the 20th of the month following the month in which the invoice was dated, except where special conditions apply. Payment will not be accepted by any means other than Cash, Cheque, Direct Credit, Direct Debit, Eftpos, Master Card or Visa, however, SCE reserves the right to reject payment by cheque if an account is in arrears.
- 3.2 If any account is in dispute the undisputed portion of the account shall be payable in accordance with the normal terms of payment as provided in 3.1.
- 3.3 Payment for the disputed portion may be withheld PROVIDED the matter is brought to SCE's attention immediately it is discovered, AND a letter of explanation setting out the particulars of the dispute is sent to SCE within seven days of the dispute arising.
- 3.4 SCE reserves the right to suspend delivery of further Goods if the terms of payment are not strictly adhered to by the Customer.
- 3.5 Interest on overdue accounts at the rate of up to three percent per month may be charged by SCE on any outstanding balance from the due date.
- 3.6 Any expenses, costs or disbursements incurred by SCE in the recovery of any and all outstanding monies including SCE's administration charges, debt collection agency fees, solicitor's costs, and court fees or charges, shall be paid by the Customer.

4 NEW ACCOUNT

- 4.1 Use of this account shall constitute acceptance of these terms and conditions.
- 4.2 The customer shall not be liable for any indebtedness arising from the fraudulent use of the account PROVIDED that the customer, on discovering the fraudulent use of the account immediately notifies SCE of such fraudulent use. The burden of proving such use was fraudulent shall be upon the Customer.
- 4.3 The Customer shall endeavor to return all goods acquired by fraudulent use of this account.

5 DELIVERY

- 5.1 Delivery is deemed to be effected on placement of the goods with the carrier.
- 5.2 SCE shall ship the Goods to the address stated by the customer at time of order.
- 5.3 SCE shall ship the Goods by such carrier and such form of

transport SCE considers to be appropriate.

- 5.4 Where the customer specifies the carrier and the means of carriage, SCE shall ship the Goods in the way specified, the cost of such carriage being an additional charge to the invoiced price of the goods.
- 5.5 SCE will not be responsible for any part delivery or delay in delivery of the Goods as a result of events occurring beyond SCE control. SCE shall not be in any way responsible for any consequences (direct or indirect) arising from such delay or non-delivery.
- 5.6 The Customer agrees to inform SCE at the time of order if proof of delivery is required. No liability will lie with SCE for failure to obtain proof of delivery.

6 PRIVACY ACT 1993

- 6.1 The Customer authorises SCE to collect, retain, and use personal information about the Customer (including the information collected in this document) for the following purposes only:
- Assessing the Customer's credit-worthiness.
 - Disclosing to a third party details of this application and any subsequent dealings it may have with SCE for the purpose of recovering amounts payable by the Customer and providing credit references.
 - Marketing goods and services provided by SCE to Customers.
- 6.2 The Customer, if an individual, has a right of access to information about the Customer held by SCE. The Customer may request correction of that information and may require that the request is stored with that information. SCE may charge reasonable costs for providing access to that information.

7 INTELLECTUAL PROPERTY

- 7.1 Where SCE has followed a design or instruction furnished by, or given by the Customer, the Customer shall indemnify SCE against all damages, penalties, costs and expenses of SCE or in respect of which SCE may become liable through any work required to be done in accordance with these instructions involving an infringement of a patent trademark, registered design or common law right.
- 7.2 Where the customer supplies a mould, tool, or any other item used in the manufacturing process, the customer shall reimburse SCE for all maintenance expenses. SCE shall not be liable for any loss or damage to moulds, tools or materials supplied by the customer to SCE for the purposes of fulfilling any contract.
- 7.3 All equipment for specific use in the manufacture of the goods (other than those supplied by SCE) remains the property of SCE unless the cost shall have been fully recovered including all development and costs relating to SCE from the customer in the cost of the goods already paid for by the customer.
- 7.4 All information prepared by SCE including, without limitation, customised pricing, details of improvements and cost reductions, is the intellectual property of SCE and cannot be copied, altered or distributed without SCE's prior written consent. SCE will not be liable for any alterations made by the Customer.

8 CLAIMS, RETURNS, WARRANTIES

- 8.1 Any claim by the customer against SCE must be made within seven (7) days of delivery in writing.
- 8.2 The return of Goods must be notified in advance and agreed to by SCE in writing.
- 8.3 A fifteen (15) percent restocking charge will be payable by the customer unless waived by SCE.
- 8.4 Goods Indented specifically for customers are not returnable unless SCE agrees to the return of the Indented Goods whereby charges, at the discretion of SCE, in addition to Clause 8.3 may apply.
- 8.5 SCE warrants its goods against defective materials and workmanship for a period not exceeding 12 months from the date of invoice. Defective goods shall at the option of SCE be either repaired, replaced, or credited to the Customers account. The Warranty does NOT cover labour, freight or any associated costs including but not limited to downtime, loss of production etc. The liability of SCE is limited to the sale value of the goods.

9 RISK

Risk in the Goods shall pass to the customer on delivery per condition 5.

10 PPSR SECURITY INTEREST

- 10.1 The Customer grants to SCE a Security Interest in the goods and their Proceeds to secure the obligation of the Customer to pay the purchase price of the goods and any other obligations of the Customer to SCE under this agreement (together the "Indebtedness"). Where the goods and/or proceeds are not readily identifiable and/or traceable, or their recoverable value is

insufficient to pay the indebtedness, the security interest shall also extend to all the customers present and after acquired supplies, of which the goods form part to the extent required to secure the Indebtedness.

- 10.2 As and when required by SCE the customer shall at its own expense, provide all reasonable assistance and relevant information to enable SCE to register a Financing Statement or Financing Charge Statement and generally to obtain, maintain, register and enforce SCE's Security Interest in respect of the goods supplied, in accordance with the Personal Property Securities Act 1999 ("PPSR").
- 10.3 The Customer shall not change its name without first notifying SCE of the new name not less than 7 days before the change takes effect.
- 10.4 Notwithstanding any reference to a particular Invoice/order, where any sum remains outstanding by the customer on more than one invoice/order, any payments received from the customer shall be deemed to be made by the customer and applied by SCE in respect of each unpaid invoice/order on a pro rata basis PROVIDED THAT where SCE applies payments in that manner SCE shall not charge interest on overdue balances that would have been cleared if the payments were not allocated pro rata.
- 10.5 Until the Customer has paid all monies owing to SCE the Customer shall at all times ensure that:
- The goods supplied by SCE, while in the customer's possession, can be readily identified and distinguished; and/or
 - All Proceeds (in whatever form) that the customer receives from the sale of any of the goods are readily identifiable and Traceable.
- 10.6 Where the goods are purchased by the Customer as stock in trade for sale or lease in the ordinary course of the Customer's business, nothing in this clause shall prevent the Customer from selling or leasing and delivering the goods in the ordinary course of the Customer's business. Otherwise, until the customer has paid all money owing to SCE, the Customer shall not sell or grant a Security Interest in the goods without SCE's written consent.
- 10.7 The parties agree to contract-out of the PPSR in accordance with Section 107 of the PPSR to the extent that Section 107 applies for the benefit of, and does not impose a burden on SCE. The Customer waives its right to receive a Verification Statement in respect of any Financing Statement or Financing Charge Statement registered by or on behalf of SCE in respect of the Security Interest created by these Terms and Conditions of Trade.
- 10.8 For the purpose of this clause, words and phrases starting with a capital letter shall have the respective meanings given to them under, or in the context of, the PPSR.

11 CUSTOMER'S LIABILITY & DEFAULT

If the customer shall:

- Fail to make any payment due under the contract or commit any other breach of any of the Customer's obligations under the contract; or
- Suffer execution under any Judgment; or
- Commit an act of bankruptcy; or
- Make any composition or arrangement with any creditor; or
- Being a company, pass a resolution for winding up or have a receiver appointed over any of its property or have a winding up petition presented against it;

SCE (in addition to any other remedies hereby or by statute conferred) may treat the contract as terminated and any part of the Purchase Price then unpaid, together with any other monies owing hereunder, whether or not due under the terms of the contract shall forthwith become due and payable. Any such termination shall be without prejudice to any claim or right SCE may otherwise possess.

12 VARIATIONS TO TERMS AND CONDITIONS OF TRADE

- 12.1 SCE may from time to time and at SCE's sole discretion amend, add to, or delete any of these Terms and Conditions of Trade with immediate effect by giving notice to the customer. PROVIDED THAT SCE shall not make any variation to the nature or extent of the Security Interest granted by the Customer in clause 10.1 without the written agreement of the Customer. SCE may notify the Customer by delivering to the Customer documentation with these Terms and Conditions of Trade, incorporating the variations, printed on it.

13 GOVERNING LAW

- 13.1 These Terms and Conditions of Trade are governed by the laws of New Zealand.
- 13.2 SCE and the Customer shall submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of, or pursuant to, this Terms and Conditions of Trade Agreement