

Terms & Conditions of Sale

1. INTERPRETATION

1.1 In these Conditions:

- "Buyer" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller;
- "Goods" means the Goods which the Seller is to supply in accordance with these Conditions;
- "Seller" means Brendan Meehan Controls (Manufacturing) Ltd.;
- "Conditions" means the standard terms and conditions of sale set out in this document including any special terms and conditions agreed in writing between the Buyer and the Seller; and
- "Contract" means the contract for the purchase and sale of the Goods.

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF SALE

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2 No variation of these Conditions shall be binding unless agreed in writing by the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations or advice concerning the Goods or the storage, application or use of the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any rights in respect of, any such representation or advice, which is not so confirmed.

3. ORDERS AND SPECIFICATIONS

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller.

3.2 The Buyer shall indemnify and keep indemnified the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller including (without limitation) claims in respect of the infringement of the intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

3.3 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.3 No order, which has been accepted by the Seller may be cancelled or varied by the Buyer except with the agreement in writing by the Seller.

4. PRICE OF THE GOODS

4.1 The price of the Goods shall be the Seller's quoted price. All prices quoted are valid for 30 days or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 Unless otherwise agreed in writing between the Buyer and the Seller, all prices include packing but do not include the Seller's charges for transport and insurance.

4.2 The price is exclusive of any applicable value added tax.

4.4 The Seller reserves the right where Goods are scheduled for delivery more than 2 months after the date of the Contract being agreed, to increase the price of the Goods to reflect any increase in the cost of the Goods to the Seller.

5. TERMS OF PAYMENT

5.1 The Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after despatch of the Goods by the Seller, or, where the Goods are to be collected by the Buyer at any time after the Seller has notified the Buyer that the Goods are ready for collection.

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- 5.2 The Seller shall be entitled to recover the price of the Goods notwithstanding that property in the Goods has not passed to the Buyer.
- 5.3 The Buyer shall pay the price of the Goods within 30 days of the end of the month in which the Seller's invoice is raised (or such other date as may be agreed in writing by the Seller). The time of payment of the price shall be of the essence of the Contract.
- 5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to it, the Seller shall be entitled to:
- 5.4.1 cancel the Contract or suspend any further deliveries to the Buyer;
 - 5.4.2 appropriate any payment made by the Buyer to such of the Goods (or other goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.4.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above Barclays Bank plc base rate from time to time, (but subject to a minimum interest rate to be paid by the Buyer of 10 per cent per annum), until payment in full is made.

6. DELIVERY

- 6.1 Delivery of the Goods shall be made by the Seller to the address specified in the order or acknowledgement of order or, if no address is specified to the Buyer's principal place of business.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery of the Goods shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted delivery date.
- 6.2 The Seller reserves the right to deliver the Goods in instalments and each such delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4 If the Buyer fails to take delivery of the Goods then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage.

7. RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of actual delivery.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods.
- 7.2 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time, the Buyer shall be entitled to use or, acting as the Seller's agent, resell the Goods in the ordinary course of its business.
- 7.3 Until such time as the property in the Goods passes to the Buyer the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, the Seller shall be entitled to enter upon any premises of the Buyer or any third party where the Goods are stored and re-possess the Goods.
- 7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller.

8. WARRANTIES AND LIABILITY

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defect in material and workmanship for a period of 6 months from the date of their initial use or 12 months from delivery, whichever is the first to expire.
- 8.2 The Seller shall be under no liability under the above warranty if:
- 8.2.1 the defect in the Goods arises from any drawing, design or specification supplied by the Buyer;
 - 8.2.2 the defect arises from fair wear and tear, wilful damage, improper storage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;
 - 8.2.3 the total price for the Goods has not been paid by the due date for payment; or

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8.2.4 any claim is not notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure.

Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest permitted by law.

- 8.4 Where any valid claim in respect of any of the Goods is notified to the Seller it shall be entitled (but not obliged) to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer. In any event, the maximum liability of the Seller to the Buyer in respect of any of the Goods shall be the price paid by the Buyer for the Goods.
- 8.5 Without prejudice to the provisions of condition 8.4, the Seller's liability for damage to tangible property resulting from breach of contract and/or any negligent act or omission of the Seller or its employees, agents or subcontractors shall be limited to £ 1,000 in respect of any one incident.
- 8.6 The Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer or any delay or failure on the part of the Seller to supply the Goods in whole or in part.
- 8.7 The Seller shall not be liable to the Buyer or deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, by reason of circumstances outside the reasonable control of the Seller, including (without limitation) difficulties in obtaining the Goods from the Seller's own suppliers.
- 8.8 The Buyer acknowledges that in all the circumstances (including, without limitation, the price of the Goods, the fact that the Seller operates as an importer and reseller only of the Goods and has no control over the design or manufacture of the Goods or any products into which the Goods are incorporated, the unavailability to the Seller of insurance to cover property and consequential loss on reasonably affordable terms) the exclusions and limitations contained in these Conditions are fair and reasonable.

9. INSOLVENCY OF BUYER

If the Buyer becomes insolvent within the meaning of section 214 of the Companies Act, 1963 of Ireland or if the Buyer ceases or threatens to cease its business then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable.

10. GENERAL

- 10.1 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.2 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part that provision or part provision shall be deleted and the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 10.3 The Contract shall be governed by Irish law and any dispute arising under or in connection with these Conditions or the sale of the Goods shall be subject to the exclusive jurisdiction of the Irish courts.