

Terms and Conditions of Sale by Conductix-Wampfler ("Seller") and the recipient of product ("Buyer")

1. Agreed terms and conditions of Sale:

These Terms and Conditions of Sale are the sole terms and conditions governing any purchase and sale contract entered into. All terms proposed by Buyer, whether or not covered by or conflicting with the terms hereof are not accepted by Seller. (Unless otherwise agreed to in writing by Seller).

2. Prices:

All prices are exclusive of any present GST or future federal, state tax duty if applicable, excise, manufacturing processing or importation tax or any other tax, GST, duty or charge that is or may be imposed on the goods or services sold hereunder. (Unless otherwise agreed to in writing by Seller).

3. Price validity:

Published price lists are subject to change without notice. Quotations for specific products or projects are valid for acceptance within 30 days of date of quotation, unless stated otherwise.

4. Payment:

Unless agreed otherwise in writing, payment including GST and other applicable taxes shall be **due Net 30 days FROM INVOICE DATE**. A service charge of 1% per month (effective annual interest rate 12%) is payable by Buyer on all past due accounts.

5. Retention of Title:

Ownership of goods is retained by Seller until full payment is received whether or not the goods have passed into the possession of the Buyer. The Buyer assumes the risk for any loss or damage to or deterioration of the goods as and from the date of delivery. Until such time as title has passed, the goods remain the possession of the seller irrespective of whether they have been used in a manufacturing process or delivered to another address. If the Buyer at any time defaults in payment for the goods, the Seller is authorised to enter the Buyer's premises, or site at which the goods are held, and take possession of the goods. Where the goods have been sold to a third party by the customer, the customer agrees to assign to the supplier any claims he has on that third party at the supplier's option.

6. Delivery:

The Seller will endeavour to ship all materials within the time indicated by them but does not guarantee to do so.

- (a) The delivery times made known to the buyer are estimates only and the seller is not be liable for late delivery or non-delivery.
- (b) The seller is not be liable for any loss, damage or delay occasioned to the buyer or its customers arising from late or non-delivery or late installation of the goods.
- (c) If the seller delivers any of the goods by instalments, and any one of those instalments is defective for any reason:
- (d) it is not a repudiation of the contract of sale formed by these conditions.

The Buyer is not entitled to claim for losses or damages, or to terminate the purchase and sale contract, as a result of late delivery (unless otherwise agreed to in writing by Seller). Any claims for short delivery must be lodged within 10 days of delivery.

7. Insurance:

All risk associated with goods ceases upon shipment. Seller's responsibility ceases upon delivery to any carrier from their works. Seller does not insure shipments beyond this point and the buyer accepts all risk for damages of goods in transit.

8. Cancellations:

If the purchase and sale contract is cancelled for any reason beyond the Seller's reasonable control, the Buyer shall pay the Seller's costs and reasonable overheads and profit up to the date of cancellation. Seller shall have the right to cancel the purchase and sale contract without any liability if it is unable to supply for reasons beyond its' control.

9. Returns:

Goods returned in good condition within 14 days of purchase may be credited, at the Seller's discretion, less a 10% restocking fee and administration fee determined by Seller. In such case, all freight costs shall be paid by the Buyer. Credit for goods returned after 14 days will only be granted in extreme conditions and at the discretion of the Seller. The Seller will not accept goods for return where they were custom designed/manufactured, or if the goods are in any way unsuitable for resale.

10. Change of Design:

Seller reserves the right to change or modify the design or construction of any product without notice and without incurring any obligation or liability to furnish or install such changes, modifications or improvements on products previously or subsequently sold.

- (a) All specifications, drawings, and particulars of weights and dimensions submitted to the seller are approximate only and any deviation from any of these things does not vitiate any contract with the seller or form grounds for any claim against the seller.
- (b) The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of the contract

Initial: _____

of sale of the goods or of the description applied to the goods.

- (c) Where specifications, drawings or other particulars are supplied by the buyer, the seller's price is made on estimates of quantities required. If there are any adjustments in quantities above or below the quantities estimated by seller and set out in a quotation, then any such increase or decrease are to be adjusted on a unit rate basis according to unit prices set out in this document or in the quotation.

11. Compliance with Statutory Authorities and Regulations:

Seller's responsibility is limited to complying with reasonable industry standards or standard regulations in the Seller's published literature.

12. Warranty:

Seller warrants the goods against defective workmanship and material discovered and reported to Seller within one year after shipment of such goods to Buyer, except as noted below.

Except where the nature of the defect is such that it is appropriate, in Seller's judgment, to effect repairs on site, Seller's obligation hereunder to remedy defects shall be limited to repairing or replacing (at Seller's option) FOB point of original shipment by Seller, any part returned to Seller at the risk and cost of Buyer. (Defective parts replaced by Seller shall become the property of the Seller).

Seller shall only be obligated to make such repair or replacement if the goods have been used by Buyer only in service recommended by Seller and altered only as authorised by Seller. Seller is not responsible for defects which arise from improper installation, neglect, or improper use, or from normal wear and tear.

Additionally, Seller's obligation shall be limited by the manufacturer's warranty (and is not further warranted by Seller) for all parts procured from others.

Seller makes no warranty (and assumes no liability) as to function of equipment or operation of systems built to Buyer's design or of the ability of any goods to interface, operate or function with any portions of Buyer's system not provided by Seller. Upon installation, the Buyer accepts goods on such condition.

Systems or goods designed in consultation with Buyer for a specific purpose are warranted only for compliance with the agreed drawings and specifications and are not warranted for function or operation.

13. Limitations of Liabilities:

Seller's liability on any claim, whether in contract, tort (including negligence), breach of statutory duty or statutory obligation or otherwise, for any loss or damage arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any products or services shall in no case exceed the price paid for the product or services or any part thereof which give rise to the claim. The parties agree that the Seller shall not be liable for consequential, special, incidental or other damages, nor shall Seller be liable in respect of personal injury or damage to property not the subject matter hereof, unless attributable to gross misconduct of Seller, which shall mean an act or omission by Seller demonstrating reckless disregard of the foreseeable consequences thereof.

Seller is not responsible for incorrect choice of models or where products are used in excess of their rated and recommended capacities and design functions or under abnormal conditions. Seller assumes no liability for loss of time, damage or injuries to property or persons resulting from the use of Seller's products. Buyer shall hold Seller harmless from all liability, claims, suits and expenses in connection with loss or damage resulting from operation of products or utilization of services, respectively, of Seller and shall defend any suit or action which might arise therefrom in Buyer's name – provided that Seller shall have the right to elect to defend any such suit or action for the account of Buyer. The foregoing shall be the exclusive remedies of the Buyer and all persons and entities claiming through the Buyer.

14. Packing (if applicable)

The cost of any special packing and packing materials used in relation to the goods are at the buyer's expense notwithstanding that such cost may have been omitted from any quotation.

15. Buyer's property

Any property of the buyer under the seller's possession, custody or control is completely at the buyer's risk as regards to loss or damage caused to the property or by it.

16. Storage

The seller reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the buyer within fourteen days of a request by the seller for such instructions. The parties agree that the seller may charge for storage from the first day after the seller requests the buyer to provide delivery instructions.

17. General Provisions:

These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Victoria.

Initial: _____