

Unless the quotation otherwise provides to the contrary, it is submitted subject to the following Conditions of Sale and any qualification, addition or variation of these Conditions of Sale which appear on the Buyer's order shall be deemed not to form part of the contract between SYNTECHTRON Pty Ltd and the Buyer unless such qualification, addition or variation is specifically agreed to in the order acknowledgment. SYNTECHTRON Pty Ltd shall hereinafter be referred to as the Seller.

**1. LAW**

The quotation and resulting contract will be governed by the laws of the State of New South Wales, Australia.

**2. BUYER'S STATUTORY RIGHTS**

These conditions of sale shall not exclude, limit, restrict or modify the rights, entitlements and remedies conferred upon the Buyer or the liabilities imposed upon the Seller, by any condition or warranty implied by a Commonwealth, State or Territory Act or Ordinance, rendering void or prohibiting such exclusion, limitation, restriction or modification.

**3. BASIS OF PRICE**

- (a) The prices quoted are strictly nett and in the case of materials covers delivery ex works unpacked & uninsured. All insurance and forwarding charges being to the Buyer's account.
- (b) The prices quoted in any revisions to the initial quotation, will all have the same base date as that initial quotation unless stated otherwise.
- (c) Where the goods are to be imported, or the completed goods include imported components, prices are based on exchange and duty rates applicable on the base date nominated in the quotation. Variations in those rates will be charged to the Buyer's account as follows:-
  - (i) Exchange - The value of imported goods will be varied by the ratio of the exchange rates ruling on the date which is 10 banking days after the date which appears on the duty warrant in the cash register receipt notation and those rates ruling on the base date.
  - (ii) Duty - The allowance for duty included in the tender price will be varied to reflect the actual rates applicable at time of importation and shown on a receipted duty warrant.
- (d) GST is not included in the quoted price but will be shown on an appropriate Tax Invoice.
- (e) During the contract period should the scope of work be varied from that called for in the quotation, then we reserve the right to revise our quoted price.

**4. PRICE VARIATION**

Where the quoted delivery period is in excess of 6 months, unless stated elsewhere in the quotation to the contrary, the prices quoted are subject to the attached price variation formula.

**5. TERMS OF PAYMENT**

- (a) Payment will be nett cash (Australian currency) on delivery unless the buyer has an approved credit account in which case payment will be made nett in Australian currency, at Sydney, thirty days after date of invoice. The invoice, including price variation, will be submitted on date of despatch or date of notification that the goods are ready for despatch whichever is earlier or, in the case of claims for work in progress, on submission of a certificate stating the value of work in progress.
- (b) Where goods are for delivery to a buyer outside of Australia payment will be made by means of an Irrevocable Letter of Credit, lodged with seller's bank and payable on demand against written notification of goods ready for despatch and invoice or presentation of a Bill of Lading and invoice. The Letter of Credit to be established within 14 days of acceptance of order shall have an expiry date of not less than ninety days after due date for delivery and shall allow for draw down for partial shipments or work in progress. Failure to establish the Letter of Credit may be grounds for the seller to cancel the contract and recover all costs incurred between date of receipt of specification and date of cancellation.
- (c) Claims for work in progress shall be made as per the preceding paragraphs. All progress payments shall be met by the due dates as a condition precedent to completion of the contract.
- (d) If the Buyer commits any act of bankruptcy or being an incorporated company, passes a resolution for winding up (except for the purpose of reconstruction) or a petition is presented for its winding up, the seller may without prejudice to its other rights at law either suspend further deliveries, require payment in advance for all further deliveries or terminate any contract forthwith by written notice to the buyer. Such notice being delivered by registered mail.
- (e) Notwithstanding acceptance of an order all contracts are subject to continuing credit control review and Seller reserves the right to vary the stated terms of payment if it is necessary to protect his interests.
- (f) All payments made after the expiry of the agreed 30 day period, for receipt of monies, may be subject of a financing charge based on the base lending rate of the Commonwealth Bank of Australia plus 2% administration fee.

**6. DELIVERY**

- (a) Time of delivery is given as accurately as possible and subject to extension of time to cover delays arising from any cause beyond the control of the seller including, but not limited to, those caused by strikes, breakdowns, accidents and non receipt of component parts. No responsibility will be accepted for consequences of any such delays.
- (b) Delivery periods commence with receipt of order, samples if required and full and final information and instruction enabling work to be put in hand and proceed without interruption. Where approval of drawings by buyer is required, any delay in receipt of such approval will be grounds for a claim for an extension of the delivery programme or a claim for recovery of costs incurred to make up such lost time.
- (c) For delays in programme which do not lead to the granting of an extension of time, under 6(a) or 6(b) above, Syntechtron does not accept damages, of any kind.
- (d) Where delivery is quoted "ex stock" it shall be subject to a minimum of a one week delivery period plus the effect of possible sales between date of quotation and receipt of an order.
- (e) Where delivery of the goods is not taken within 14 days of advice that the goods are available for delivery, the goods may be sent to storage at the buyer's risk and expense.

**7. PROPERTY**

The Seller and the Buyer agree that:

- (a) the property of the Seller in the goods remains with the Seller until the Seller has been paid in full for the goods under all individual contracts for the supply of the goods between the Seller and the Buyer.
- (b) the Buyer is a Bailee of the goods until such time as property in them passes to the Buyer and that this bailment continues in relation to each of the goods until the price of the goods has been paid in full;
- (c) pending payment in full for the goods, the Buyer:
  - (i) must not supply any of the goods to any person outside of its ordinary or usual course of business;
  - (ii) must not allow any person to have or acquire any security interest in the goods;
  - (iii) must insure the goods for their full insurable or replacement value (whichever is the higher);
  - (iv) must not remove, deface or obliterate any identifying plate, mark or number on any of the goods;
- (d) despite clause 7(c), if the Buyer supplies any of the goods to any person before all moneys payable by the buyer have been paid to the seller (and have not been claimed or clawed-back by any person standing in the place of or representing the Buyer), the Buyer agrees that:
  - (i) it holds the proceeds of re-supply of the goods on trust for and as agent for the Seller immediately when they are receivable or are received;
  - (ii) it must either pay the amount of the proceeds of re-supply to the Seller immediately when they are received or pay those proceeds into an account with a bank or a financial institution or deposit-taking institution as trustee for the Seller;
- (e) any accessory or item which accedes to any of the goods by an act of the Buyer or of any person at the direction or request of the Buyer becomes and remains the property of the Seller until the Seller is paid in accordance with clause 7(a) when the property in the goods (including the accessory) passes to the Buyer; and
- (f) if the Buyer fails to pay for the goods within the period (or within the period of credit (if any) extended by the Seller to the Buyer, or in the event that an administrator, liquidator or trustee in bankruptcy is appointed to the Buyer or any guarantor of the buyer, the seller may recover possession of the goods at any site owned, possessed or controlled by the buyer and the Buyer agrees that the Seller has an irrevocable licence to do so.
- (g) Personal Properties and Security Act.  
For the purposes of this clause, "**PPSA**" means the Personal Properties and Securities Act 2009 (Cth) as amended from time to time. Where a particular section or term from the **PPSA** is used in these Terms and Conditions it is deemed to be that section or term as amended, renumbered or replaced from time to time.
  - (i) The Buyer acknowledges and agrees that this contract constitutes a security contract in relation to the Sellers security interest in all present and after acquired goods in accordance with the **PPSA**.
  - (ii) The Buyer consents and agrees to execute any other document or instrument required to give effect to the security interests created by this contract.
  - (iii) The Buyer consents to the registration with the relevant authority or public register of any security interest created by this contract or any other document required to give effect to a security interest created by this contract.

**8. WARRANTIES AND LIABILITY**

- (a) Seller warrants the equipment to fulfil only such duty if any as may be nominated in the quotation duty statement, or negotiated and confirmed in writing prior to its purchase but not to accomplish any additional capacity or to work under conditions different from those agreed to in writing by both parties.
- (b)
  - (i) Seller further warrants the equipment to be free of defects in material and workmanship for a period of twelve (12) months from date of commissioning or eighteen (18) months from date of delivery, whichever occurs first, and will rectify or replace any part or parts found to be defective in material and/or workmanship ex works only.
  - (ii) For the avoidance of doubt, warranties offered pursuant to this clause do not extend to existing hardware (for example existing hangers).
- (c) Where goods not of Seller's manufacture are supplied, whether solely or as part of other equipment, the entitlement to the benefit of any warranty is limited to that which the Seller obtains from the manufacture and/or supplier of those goods.
- (d) the Buyer acknowledges and agrees that the Seller is not liable for, and specifically excludes any consequential damages, loss of profits and any contingent liability or any claim in respect of damage to any other plant or equipment as a result of failure of equipment supplied by the Seller or any claim in respect of damage to equipment supplied by the Seller which may be sustained through the continued operation of such equipment after it is known to be defective or ought to have been known to be defective, nor will the Seller bear any expense or liability for repairs made to the equipment outside of the Seller's own factory without Seller's prior written consent.
- (e) Exchange/Refurbished Drive Units
  - (i) Exchange/Refurbished Drive Units fitted to new troughs must be commissioned by Seller's trained personnel. For the avoidance of doubt, failure to have Seller personnel commission an Exchange/Refurbished Drive Unit will result in the feeder warranty being void.
  - (ii) Exchange/Refurbished Drive Units fitted to troughs other than new will not be subject to the warranties contained in this clause as the condition of the trough is unknown to the Seller and may differ from the trough the feeder was originally supplied with.

**9. ALL ORDERS**

The Seller and the Buyer agree that these terms and conditions, as varied by the Seller from time to time, remain binding between them in respect of all goods supplied by the Seller to the Buyer pursuant to any quotation until such time as advised by the Seller to the Buyer in writing.

**10. PARTS FEEDER ORIENTATION**

Under Seller's warranty an order is accepted for the manufacture of parts feeders incorporating orientation features on the basis that if it is shown that the orientation cannot be reasonably achieved, Seller has the right to cancel the order without either party incurring liability.

**11. INSTALLATION AND INSTRUCTION MANUALS**

The price in the quotation, for items other than spare parts, includes the provision of one copy of Seller's standard installation and operating manual but does not include for installation, commissioning or engineering assistance unless otherwise stated. Additional copies of the installation and instruction manuals are available at a price to be negotiated.

**12. COMMISSIONING**

- (a) If required, the services of an engineer may be made available at Seller's current rate, per standard ten hour day including travelling time and delays, plus additional costs. Additional costs will include, but not be limited to, hire of transport, accommodation and any sundry expenses at cost plus 10%. These costs will also include those incurred during a weekend should the period of hire cover the weekend(s) and it is not practical for the engineer to return to his base.
- (b) Where goods not of Seller's manufacture are supplied, whether solely or as part of another machine, the commissioning charges for that equipment will be those ruling at the time from the manufacturer of those goods.

**13. STANDARDS**

The equipment quoted is designed, manufactured and painted to Seller's standard specification and colour. The cost of any departure from those standards will be to Buyer's account.

**14. DRAWINGS ETC.**

- (a) All descriptive and shipping specifications, drawings and particulars of weights and dimension submitted in or with the quotation are approximate only and the descriptions and illustrations contained in the catalogues and other advertising matter are intended merely to present a general idea of the goods described therein and none of these shall form part of the contract. After acceptance of the quotation, such certified outline drawings as in Seller's opinion are necessary will be made available on request. An additional charge may be made for extra copies.
- (b) Any drawings require buyer's approval before manufacture commences must be returned to Seller within seven days of submission to Buyer signifying Buyer's approval or otherwise.
- (c) Our delivery is based on seven calendar day turn around of drawings and information. Where drawings issued for approval are returned requiring resubmission and/or changes to the design arising from your opinion or interpretation or from a requirement of which we were not advised, and where the specification is either ambiguous or not specific then the rework and additional supply will be to your account, and an extension of time may be claimed.

**15. CANCELLATION**

Cancellation of orders, following acceptance, shall not be accepted without seller's consent in writing and only upon such terms as will indemnify seller against loss including loss of profit. This clause does not apply to cancellation under clause 9.

**16. RETURNED GOODS**

No goods will be accepted for return unless authorised in writing by Seller.

**17. ADVICE**

Subject to clause 2, any advice, recommendation, information, assistance or service provided by the Seller in relation to goods sold or manufactured by him or their use or application is given in good faith and is believed by the Seller to be appropriate and reliable. However, any advice, recommendation, information, assistance or service provided by the Seller is provided without liability or responsibility on the part of the Seller.

**18. GENERAL**

The price set out in the quotation is based on all known costs and expenses which are applicable, and can be accurately determined, at this date. However, if the introduction of new, or variation to or repeal of existing laws, codes, statutes, proclamations, orders, by-laws, regulations, awards or industrial agreements (including both registered and unregistered) result in additional costs and expenses which cannot be anticipated or accurately determined at this date and built into the tendered fixed price, or in the case of a variable price, either built into the price set out in the quotation or recovered through application of the price variation formulae then we will charge such costs and expenses to your account.