

ACE CONTROLS INC. TERMS AND CONDITIONS OF SALE

1. Scope and Effectiveness. These Terms and Conditions apply to all deliveries of goods, works and any related software, technical data, service, or technical assistance ("Product") by the seller ("Seller") issuing the applicable quotation, bid or offer. Seller's offer to sell and Buyer's order to purchase ("Order") from Seller shall become effective and binding on Seller only when Seller delivers the Product to Buyer. By and upon Buyer's failure to object in writing within ten (10) days of receipt of these Terms and Conditions, Buyer agrees to these Terms and Conditions of Sale. Seller shall not be bound by any terms or conditions, whether written, oral or otherwise, that are different or vary from or are in addition to these Terms and Conditions, and any such terms or conditions shall be null and void and of no effect whatsoever.

2. Price and Payment. Prices quoted are current prices and Seller reserves the right to adjust the invoice price for any item to correspond to prices prevailing at time of shipment. Notwithstanding the foregoing, Seller may alter prices at any time, upon written notice to Buyer, due to variations in the cost of raw materials used to manufacture the goods purchased by Buyer, or due to a material change in quoted volumes. Payment terms are 30 days net from date of invoice. Late payments shall incur a time-price differential charge equal to 1 ½% per month.

3. Shipping and Delivery. The Product shall be made F.C.A Buyer's Freight Forwarder's location in the United States. Delivery to Buyer's Freight Forwarder will constitute delivery to Buyer, at which point Buyer shall bear all risk of loss or damage of any kind whatsoever to the Product. Seller's delivery dates are approximate. Seller is not liable for any loss or damage including, but not limited to, consequential and incidental damages due to delays in shipment or delivery for whatever reason including but not limited to, strike, lockout, embargo, lack of shipping facilities or any cause or circumstance of any kind whatsoever beyond Seller's control, in which event Seller's time for delivery shall be extended by the period of such delay.

4. Security Title. Security title and right of possession of the products sold hereunder shall remain with Seller until all payments due from Buyer to Seller (including deferred payments whether evidenced by notes or otherwise) shall have been made in cash and Buyer agrees to do all acts necessary to perfect and maintain such security right and title in Seller.

5. Taxes. Prices do not include foreign or domestic sales, use, excise or similar taxes. All federal, state or local excise, sales or use taxes, duties, tariffs, and the like, shall be paid by Buyer, or in lieu of Buyer's payment of taxes, Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities. If such tax is paid by Seller, Buyer shall reimburse Seller upon presentation of invoice.

6. Approval of Design, Inspection of Product, and Acceptance of Product. For custom products, Buyer shall approve Seller's design in writing before Seller produces the Product. Buyer shall complete its inspection of and accept, reject or revoke acceptance of the Product within ten (10) days following delivery (the "Inspection Period"). Buyer will be deemed to have accepted the Product if it has not expressly rejected the Product in writing during the Inspection Period, (the "Deemed Acceptance Date"). Any Product that is rejected or for which Buyer revokes its acceptance shall be held by Buyer at its risk of loss and expense. Any attempted return will be at Buyer's own expense and risk of loss. No Product shall be returned to Seller without Seller's prior written permission, which permission may be withheld by Seller in its sole discretion.

7. Changes. Seller shall be obligated to provide only those Products specifically agreed upon in an accepted Order. At any time prior to delivery, Buyer may request an increase or decrease in the quantity of the Product to be delivered, or request any other change to the Order, whether in whole or in part, by providing a written change request to Seller. Any requested changes shall be binding on Seller only upon its written acceptance of such written request. If any such changes cause an increase or decrease in the price or time required to perform this Order, a corresponding adjustment to the price or any other term shall be made by Seller, and the Order shall be modified accordingly. The amount of any change in price as computed by Seller or any other term shall be binding on Buyer. Buyer shall remain liable to reimburse Seller for all charges, costs and expenses incurred prior to its receipt of Buyer's written notice of the change. The amount of all such charges, costs and expenses as computed by Seller shall be binding on Buyer. The Price is also subject to revision when interruptions, engineering changes or changes in quantity are caused or requested by Buyer or when events which are beyond the control of Seller occur including, but not limited to, increases resulting from government regulations, costs, duties, tariffs, insurance and shipping. The amount of any increases as computed by Seller shall be binding on Buyer.

8. Termination, Breach and Time for Performance. Buyer may, at any time prior to the date of shipment, terminate an Order in whole or in part by written notice to Seller, such termination to be effective upon Seller's receipt of Buyer's written notice. Upon such termination, Buyer shall immediately pay Seller its charges, costs and expenses incurred prior to the effective date of termination, which charges, costs and expenses shall be determined solely by Seller. Such charges, costs and expenses shall include, but are not necessarily limited to, Seller's profit, reasonable cost of capital, cost of returning raw materials, restocking charges, and expedited delivery costs and charges. Buyer shall be liable for and pay any time-price differential that may accrue prior to Buyer payment. Seller may immediately terminate this Order at any time for any reason or no reason. If this Order is terminated for any reason or no reason other than for Buyer's default, BUYER, AS ITS SOLE AND EXCLUSIVE REMEDY AGAINST SELLER, SHALL BE ENTITLED TO A REFUND OF THE UNUSED PORTION OF THE AMOUNT OF THE PRICE PAID, IF ANY, AS SUCH AMOUNT IS COMPUTED BY SELLER. If terminated for Buyer's default, and/or upon any such default or breach of any term or condition of this Order, Seller may thereafter pursue any and all remedies it may have against Buyer under this Order or at law or in equity. Buyer's default shall include, but is not limited to: a) Buyer's failure to timely perform any duties it has under this Order, such as reviewing and/or approving designs and making payment of the price, b) Buyer becomes subject to an insolvency proceeding; c) Buyer resolves to, or becomes subject to an order requiring it to, wind up or liquidate; d) a substantial portion of the assets of Buyer are acquired by a third party not in the ordinary course of business or a controlling interest in the ownership of Buyer is acquired by a third party; e) delivery or performance becomes impracticable or impossible for reasons not attributable to Seller; or f) Buyer's financial situation has worsened notably after commencement of the Order and/or Buyer is unwilling or unable to provide adequate security for payment of its financial obligations of the Order.

9. Financial Responsibility. If in the sole judgment of Seller the financial resources of Buyer become impaired or unsatisfactory at any time during the term of the agreement between the parties, then Seller may require of Buyer a deposit or suitable security or margin for performance by Buyer in such amount or amounts from time to time as Seller shall specify. Upon requirement of deposit, Buyer shall make such deposit not later than the close of Seller's next business day. If Buyer fails to make such deposit, then Seller may at its option (1) cancel the agreement between the parties or the undelivered portion thereof, in which case Buyer agrees to pay Seller the difference between the market price on date of cancellation and the contract price; (2) resell at any time for Buyer's account all or any undelivered portion of the products, in which case Buyer agrees to pay Seller the difference between the resale price and the contract price, or (3) otherwise change the terms of payment. In the event Buyer shall be or becomes insolvent, or admits in writing Buyer's inability to pay Buyer's debts as they mature, or if Buyer shall make an assignment with creditors or if there are instituted by or against Buyer proceedings in bankruptcy or under any insolvency laws or for reorganization, receivership or dissolution, Seller may terminate the agreement between the parties at any time and without notice.

10. Limited Warranty; Limitation of Liability.

(a) Seller warrants the Products manufactured by it to be free from defects in material and workmanship only. The extent of Seller's obligation hereunder is to either repair or replace its work or the defective Products, F.O.B. Seller's plant, if returned within 12 months after date of delivery. No allowance will be granted for repairs or alterations made by Buyer without Seller's written approval. The warranty shall not be construed to cover the cost of any work done by Buyer on material furnished by Seller or the cost of removal or installation of Product. Products and parts not manufactured by Seller are warranted only to the extent and in the manner that the same are warranted to Seller by Seller's vendors and then only to the extent Seller is able to enforce such warranty. There is no other warranty, expressed or implied in fact or by law.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE REMEDY OF BUYER AND THE SOLE AND EXCLUSIVE WARRANTY OF SELLER. THE WARRANTIES, STATED IN THIS PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR VERBAL, STATUTORY, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED.

Seller's agreement to sell the products is made upon the condition and agreement that, with respect to the Products, there have been no representations or undertakings made by or on behalf of Seller and

ACE CONTROLS INC. TERMS AND CONDITIONS OF SALE

Seller makes no guarantees or warranties, expressed or implied, in fact or in law, except as expressly stated above.

(b) Seller shall not be responsible, obligated, or liable for any injury or damage resulting from an application or use of its Products, either singly or in combination with other products.

SELLER'S SOLE LIABILITY FOR BREACH OF WARRANTY OR ANY OTHER CLAIM SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCTS OR RETURN OF THE PURCHASE PRICE, AT SELLER'S SOLE OPTION. SELLER SHALL NOT BE LIABLE FOR DAMAGES INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE PRODUCTS OR ARISING OUT OF ACCEPTANCE OF THIS ORDER.

11. **Patents.** Buyer shall hold Seller harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Buyer's design, specifications or instructions.

The sale of Products or parts thereof by Seller does not convey any license by implication, estoppel, or otherwise under patent claims covering combinations of these products or parts with other devices or elements.

12. **Export Controls.**

(a) **Items Subject to Export Controls.** Buyer understands that the export and re-export ("Export") of Seller's Products and any related software, technical data, service, technical assistance, or technology ("Controlled Items") are subject to U.S. and foreign export controls, country-wide economic sanctions, and entity-specific trade sanctions ("Export Controls"). Buyer agrees to comply, and will ensure that its affiliates comply, with all applicable Export Controls, and to obtain all required U.S. and foreign Export Control licenses and/or authorizations at its expense. Buyer shall indemnify and hold Seller harmless for any fines and other costs incurred by Seller for any failure of Buyer or its affiliates to comply with the provisions of this Section 12 in its entirety.

(b) **Prohibited Destinations.** Without limiting the generality of Section 12(a) above, Buyer will not Export the Controlled Items to prohibited destinations under U.S. Export Controls, including Belarus, Burundi, Central African Republic, Cuba, Iran, Libya, North Korea, Russia, Somalia, Sudan, Syria, the Crimean Peninsula of Ukraine, Zimbabwe, without assuring further compliance with U.S. Export Controls.

(c) **Prohibited End-Users.** Without limiting the generality of Section 12(a) above, Buyer will not Export any of the Controlled Items to prohibited end-users on the U.S. Consolidated Screening List (http://export.gov/ecr/eg_main_023148.asp).

(d) **Prohibited End-Uses.** Without limiting the generality of Section 12(a) above, Buyer will neither use the Controlled Items, nor Export the Controlled Items to end-users for their use, in conjunction with Nuclear Systems, Rocket Systems, Unmanned Air Vehicles, Chemical & Biological Weapons, Maritime Nuclear Propulsion Systems, Aircraft, Microprocessors, and Military, and certain Foreign Vessel applications, without assuring further compliance with U.S. Export Controls.

13. **Reasonable Attorneys' Fees.** In the event suit or other proceeding shall be brought for the recovery of the purchase price, or any unpaid balance or the breach by Buyer of any term of the agreement between Seller and Buyer, Buyer shall pay to Seller in addition to any damages provided by law, reasonable attorney's fees and costs of collection.

14. **Force Majeure.** In the event of war, fire, epidemics, quarantine restrictions, flood, strike, labor trouble, breakage of equipment, accident, riot, the imposition of any government price control regulation or any other act of governmental authority, acts of God or other contingencies (whether similar or dissimilar to the foregoing) beyond the reasonable control of Seller, interfering with the production, supply, transportation, or consumption practice of Seller at the time respecting the products covered by the agreement between the parties or in the event of inability to obtain on terms deemed by Seller to be practicable any raw material (including energy source) used in connection therewith, quantities so affected shall be eliminated from the contract without liability, but the contract shall otherwise remain unaffected. Seller may during any period of shortage due to any of these causes, allocate its supply of such raw material among its various uses therefore (e.g. manufacturing and sales) in such manner as Seller deems practicable and allocate its supply of such products among such various uses thereof in any manner which Seller deems fair and reasonable.

15. **Blanket Purchase Order/Separate Releases.** When separate releases of a Product are made pursuant to a blanket purchase order, such releases must be authorized in writing and signed by Buyer's duly authorized representative.

16. **Tools and Intellectual Property.** Seller shall retain ownership of any tools, technology or other matter used in the production of the Product. Seller shall own and retain ownership of all patents, patent rights, copyrights, trade secrets and all other intellectual property and proprietary rights, of any nature, which arise through the design and/or completion of the Product or which are embodied in the Product or the documentation describing or accompanying the Product. Buyer shall have a limited, nonexclusive right to use the patents, copyrights, trade secrets, intellectual and proprietary rights embodied in the Product solely as is necessary to put the Product to its intended use. Buyer shall not remove any proprietary legends contained on the Product and shall not reverse engineer, de-compile or disassemble the intellectual property embodied within the Product.

17. **Infringement.** Buyer agrees that Seller should not be liable and that Buyer shall fully defend, indemnify and hold harmless Seller if any claim or action is commenced against Seller for infringement of any patent or other intellectual property based upon Buyer's use of the Product in connection with products not manufactured by Seller or in a manner for which the Product was not designed by Seller or if the use of the Product was designed by Buyer or modified by or for Buyer in a manner to cause it to become infringing. Buyer agrees to indemnify, defend and hold harmless Seller from any claim, demand or action that the Product, when completed substantially to Buyer's specifications, infringes a third party's patents, copyrights, trade secrets, intellectual property or other proprietary rights.

18. **Raw Materials.** Except as contained in the delivered Product, Seller shall retain ownership of any raw materials, components, supplies or other materials used by Seller for the purposes manufacturing the Product, including any scrap generated from operations.

19. **Bailed Property.** Buyer shall retain ownership of and shall assume all risk of loss or damage of any kind to any property or materials provided to Seller by Buyer for production of the Product. Seller shall have a lien on such property until Buyer has paid all amounts due to Seller under this Agreement.

20. **Assignment.** Seller, in its sole discretion may assign or delegate any of its duties or rights under this Order at any time without prior notice to or the consent of Buyer. This Order may not be assigned by Buyer without Seller's prior written consent, and in any event, this Order shall be binding on Buyer's successors and assigns.

21. **Modification and Non-Waiver.** No covenant, term or condition of this Order can be waived by Seller except by its written consent. This Order may be amended only by a written instrument signed by Seller and Buyer.

22. **Governing Law and Jurisdiction.** The agreement between Buyer and Seller and matter connected with the performance thereof shall be construed in accordance with and governed by the law of the state of Seller's accepting office, as if it were executed and performed entirely within the state of Seller's accepting office, and shall be construed to be between merchants. The UN Convention on the International Sale of Goods (CISG) will not apply to the Order or these Terms and Conditions. Any legal suit, action or proceeding arising out of or relating to the Order or these Terms and Conditions will be instituted in courts or tribunals in the state of Seller's accepting office. Buyer waives any and all objections that it might have as to personal jurisdiction and venue in these exclusive tribunals.

23. **Entire Agreement.** Except as otherwise provided in these Terms and Conditions, these Terms and Conditions constitute the entire agreement between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements, communications and understandings of any nature whatsoever, whether oral, written or otherwise, all of which are null, void, and of no effect whatsoever.