

TOA ELECTRONICS SOUTHERN AFRICA (PTY) LTD

GENERAL TERMS AND CONDITIONS OF SALE

1. All orders are accepted by us subject to the following terms and conditions only. If any qualification is made by the Purchaser, it shall not form part of a contract unless expressly agreed upon by us in writing. Any prior representations or warranties by anyone on our behalf are hereby expressly excluded.
2. No servant or agent of the Company is entitled to vary any of these terms and conditions of contract unless such variations are agreed in writing by the Company either before or at the time of the contract or any time thereafter.
3. Unless a statement to the contrary is contained therein our tender is open for acceptance for thirty (30) days only from date of tender – after expiry of thirty (30) days, the Purchaser's acceptance or offer is subject to further confirmation or acceptance by us.
4. All information in our tender documents, specifications and drawings supplied by us are submitted in confidence for the use and information of the Purchaser only. They shall not be used by the Purchaser except for the purpose of the order, nor shall they be disclosed to any third party for any purpose whatsoever.
5. The Company reserves the right at its sole discretion to accept or refuse any order placed by the Purchaser on the basis of quotations issued, and in the event of a refusal, no damages or expenses of any kind whatsoever shall be payable by the Company to the Purchaser. No contract shall be formed until the Purchaser's order has been accepted and confirmed by the Company in writing.
6. Interfacing to existing equipment: -
 - a. Where the specification calls for equipment quoted to be interfaced to an existing installation, the Company has assumed that adequate documentation is available to affect a well engineered interface.
 - b. Should an order materialize from the offer the onus shall be on the Purchaser to procure and make such documentation available to the Company free of charge.
 - c. Adequate documentation shall be deemed to include, but not be limited to, as built drawings and diagrams prepared making use of suitable computer software. Locally produced drawings and diagrams shall use internationally accepted notations and symbols. OEM handbooks in respect of the equipment shall include circuit diagrams, component listings and operating instructions. Any equipment specific software shall also be made available.
 - d. The Company undertakes to keep documentation made available to it secure and in a clean condition while in its possession and return all documentation to the Purchaser on demand.
 - e. The Company warrants that it will not disclose the contents of any documentation made available to it to any third party without express and written permission to do so.
 - f. In the event that the Purchaser is unable to procure the required documentation The Company reserves the right to review any allowances it may have made with respect to the interfacing of existing equipment to equipment offered herein.
 - g. The Company shall not be held liable to make good any defects in the existing equipment or its associated wiring beyond that required affecting the interface in accordance with good engineering practice.

- h. Existing equipment is specifically excluded from any guarantee or warranty that the Company may offer in respect of equipment being supplied by it.
- 7. Except when performances are quoted in accordance with recognized test codes, any figures given for performance are based upon our experience and are such as we expect to obtain on test, and any departure from these figures shall not invalidate the contract or entitle the Purchaser to compensation or damages. We are to be entitled to assume that figures and information given to us by the Purchaser or his representatives are accurate.
- 8. Unless otherwise agreed upon in writing, the warranty period for goods purchased shall be in effect until twelve (12) months after total start up of the system in which goods purchased are actually used, but not to exceed a period of eighteen (18) months from the date of delivery of said goods. Our liability shall be limited to the replacement or repair of such faulty parts of which we shall have been notified in writing within the said period and we are not to be responsible for damages, direct or consequential, arising from any cause whatsoever. All charges and expenses incurred (including wages) for dismantling or for fitting replacement parts are for the Purchaser's account. Any such parts for repair or replacement shall be sent to our works carriage paid. Our responsibility in respect of equipment supplied by us but manufactured by others, shall be limited to such warranties as are given by the manufacturers to us and which warranties have been fulfilled to us.
- 9. Where the tender document includes for rack building the Company acknowledges that the Purchaser shall be entitled to require that the rack be assembled and tested and that the Purchaser witness such test prior to such delivery. Where such inspection is required, the Purchaser will sign an Inspection Checklist verifying that the equipment complies with the order. In the event that the equipment does not comply with the order, the Purchaser shall endorse the inspection checklist to this effect. The Company shall then correct the non-compliance and the equipment shall be subject to retest at no additional cost.

The Purchaser shall take delivery of all tested equipment within two (2) working days of successful testing.

- a. Where new equipment, not previously delivered, has been used the risk shall remain with the Company until delivery takes place;
 - b. Where the Purchaser's equipment is used for assembly and inspection, the Purchaser shall ensure that risk of damage to the equipment is under control of the Company and its employees.
- 10. It shall be understood that the equipment specified in our tender documents and drawings is substantially that necessary for the performance for the duties contemplated, but we reserve the right upon final check to our calculations, to alter designs where we consider that such changes are in the interests of more effective or economic operation of the equipment.
- 11. Unless otherwise specified all tendered prices and terms are subject to adjustment by us in case of obvious error or in respect of any changes after tender date in cost caused by variations in currency exchange, freights or taxes or any other circumstances beyond our control.
- 12. Prices quoted are subject to the terms of payment as indicated below. No defect in the materials or goods shall operate to interfere with or defer the terms of payment which must be carried out whether or not the Purchaser claims in respect of such defect.
- 13. The prices quoted are for carrying out the work in normal working hours. In the event of work being carried out at overtime rates, at the insistence of the Purchaser, the tendered prices shall be subject to adjustment accordingly.

14. Unless otherwise stated in our tender delivery of the goods is based on inward transport by sea freight. Any extra cost incurred by delivery by any other means at the insistence of the Purchaser must be borne by the Purchaser.
15. Every effort will be made by us to adhere to any dispatch dates given for delivery, but it is stipulated that such dates are approximate only. The Purchaser may not cancel the contract for delay in delivery unless by agreement with us. In no circumstance shall we be liable for loss or consequential damages caused by non-delivery or delay in delivery. Date of delivery shall in all cases be adjustable having regard to the time of receipt by us of final written instructions enabling us to proceed with the order and/or delivery. Place of delivery must be agreed to by us and in the event that the time of delivery – the said place is not ready or accessible or possible, we reserve the right to deliver at the nearest suitable place at which delivery can reasonably be made in our estimation. Delivery can be made to an address as advised by the Purchaser, or EX Works. On delivery of the equipment to the Purchaser, the risk in and to the equipment shall pass to the Purchaser, notwithstanding that ownership in the equipment remains vested in the Company. Any additional charges including demurrage, storage, handling charges etc., accruing as a result thereof, shall be for the Purchaser's account.
16. All goods returned for credit must be accompanied with the appropriate invoice, and shall be subject to the following handling fees: 15% if returned with original packaging, manuals, etc. and 30% if returned without the original packaging, manuals, etc. Goods not returned within 14 days of purchase may not be considered for credit as new replacement stock may be on order. Company reserves the right to decline any requests for goods to be returned for credit.
17. Cancellation of any order placed after goods have been ordered to fulfil the order, may result in a cancellation fee of up to 15% of the original order value.
18. Advice of non-delivery must be made to us within twenty-one (21) days from date of invoice or advice note.
19. Any damage or discrepancy existing in the goods or equipment ordered, at time of delivery, must be notified to us within three (3) days of receipt of goods or equipment, otherwise the same shall be deemed to have been inspected and found in good condition.
20. Should we agree to cancellation of an order, or part thereof, such cancellation shall be subject to the Purchaser's meeting all our costs, charges, damages and expenses incurred by us of whatsoever nature prior to cancellation including transport, storage, etc.
21. If forwarding instructions are not received by us within twenty-one (21) days after date of notification that the goods are ready for dispatch the goods will be invoiced and the Purchaser shall pay for them in accordance with quoted terms of payment and take delivery or arrange for storage at his own expense.
22. In the event of failure by the Purchaser to pay as stipulated herein, or in the event of any other breach by the Purchaser of the terms hereof, we shall be entitled to enter upon the premises without further permission and effect removal and to repossess the goods or equipment, and in such event, the Purchaser shall be liable to us for all damages, costs, losses and expenses incurred.
23. The ownership in any goods or equipment the subject of an order, shall not pass to the Purchaser until the entire purchase price has been received by us in full in cash and such ownership shall remain vested in us until this condition is fulfilled. Goods or equipment whether affixed to immovable property or not shall be deemed to remain movable property in the sense that we shall have the right to remove same without claim upon us for any damage which may be said to result to any immovable property by removal. In the event that the Purchaser is not the Owner of the immovable property in question, the Purchaser shall indemnify us against the claims of the Owner arising from such removal.

24. We reserve the right at any time to cancel and withdraw from any contract shall we not be able to obtain satisfactory guarantees for the due and prompt payment to us of all monies which are due or to become due in respect of the contract.
25. Terms of payment are, unless otherwise agreed in writing by us, net cash within thirty (30) days from date of first statement. Interest on overdue amounts will be charged at two and a half (2 ½) percent per annum above the ruling prime bank overdraft rate. We reserve the right to delivery C.O.D. or to withhold delivery of goods, or part thereof, if in our sole discretion we decide the Purchaser's outstanding indebtedness exceeds reasonable credit allowances or for any other reason in our discretion.

Payment shall be affected without deduction or set-off by way of electronic funds transfer in the Company's bank account, the details of which are as follows:

(a) For settlement of ZAR amounts :

Bank Name - Nedbank
Branch of Bank - Newton Park, Port Elizabeth
Account Name - TOA Electronics Southern Africa (Pty) Ltd
Account No. - 1263124801

(b) For settlement of USD amounts :

Bank Name - Nedbank
Branch of Bank - Newton Park, Port Elizabeth
Account Name - TOA Electronics Southern Africa (Pty) Ltd
Account Number - 7167013978

The Purchaser shall remain responsible for payments of all amounts due to the Company in terms of the contract irrespective of whether the Purchaser receives payment from its customer.

26. Trade Credit Accounts:-

- a. A Trade Credit Account means a running credit account whereby the Purchaser shall be allowed by the Company to purchaser goods and/or services on credit from the Company subject to these conditions of sale to a maximum credit limit.
- b. If the Purchaser wishes to operate a Trade Credit Account the Purchaser shall advise the Company in writing.
- c. The Company reserves the right to refuse the Purchaser to operate a Trade Credit Account and may close or reduce the amount or level of credit available to the Purchaser upon a Trade Credit Account without reference to the Purchaser.
- d. The Company may require to receive from the Purchaser either before the opening of a Trade Credit Account or at any time thereafter such details and information as the Company shall from time to time in its absolute discretion deem appropriate or requisite in respect of the opening or operation of any Trade Credit Account.
- e. Any requirement made by the Company for additional information shall be made to the Purchaser in writing.
- f. The Purchaser upon receipt of any requirement made by the Company for additional information shall provide such information as may be required to the Company in writing as soon as reasonably practicable and in any event the company reserves the right to suspend the operation or opening of any Trade Credit Account until such time as the Purchaser shall comply with the said requirement to the Company's satisfaction.

27. The Purchaser, until payment is made for the goods or equipment in full:-

- a. Shall, at his expense, keep same protected and in good order;
- b. Shall give the seller or its agent access thereto at any time on demand;

- c. Shall not pledge, hypothecate or change the same or give or allow or render same to be subject to any lien thereon;
 - d. Shall keep the same at his sole risk and shall bear all loss, damage, depreciation thereto arising from any cause whatsoever;
 - e. Shall not cede or assign his rights under this agreement;
 - f. No goods or equipment shall be sold by the Purchaser unless he has become the Owner thereof in terms of these conditions.
28. Any contract arising from this tender shall in all respects be construed in conformity with the law of the Republic of South Africa and shall be subject to the jurisdiction of the South African Courts.
29. None of the parties to this agreement shall be liable for any failure to perform its obligations under this agreement (other than payment of monies due) where such performance has been delayed, hindered or prevented by any circumstance beyond the control of that party, including but not limited to Acts of God, strikes, lock outs, trade disputes, fire, government directions and/or war. A party who wishes to invoke this clause shall notify the other party in writing of the circumstances it relies upon, within ten days of the commencement of such circumstances. Such party shall take all reasonable steps to minimize losses arising from such circumstances.