



CONDITIONS OF SALE

These conditions apply to all dealings between Heavy Automatics ("the Company") and the Customer unless the Company otherwise agrees in writing.

1. PRICE AND PAYMENT TERMS

- (A) CHARGE TERMS – Nett 30 days, with payment due at our Heavy Automatics office. We define 30 days as payment for all goods and service to be made on or before the last working day of the month following the month in which the goods are invoiced. Non payment by the due date will be considered by the Company to be a breach of the terms of sale and the Company reserves the right to vary the terms of payment and to require payment in cash in full prior to delivery should the creditworthiness of the purchaser at any time become in the Company's opinion unsatisfactory. Payment by cheque will not be regarded as payment until the cheque has been cleared.
- (B) The price quoted or invoiced is based on costs, taxes, duties, awards, statutes, rate of exchange and conditions as at the date hereof. The price is subject to increases by an amount equivalent to all increases in costs, taxes, duties, awards, statutes, rates of exchange and conditions taking place prior to delivery of the goods or performance of the services. The price does not include the cost of delivery from the Company's premises.
- (C) Until payment in full of all moneys owing to the Company:
 - (i) the goods shall remain the Company's property
 - (ii) if in the Customer's possession, the goods will be held as bailee and returned immediately on demand unused and undamaged and
 - (iii) the Customer will indemnify the Company against any claim or liability for damage or injury to or by the goods.

2. DESCRIPTION

- (A) Any representation, promise, statement or description not given in writing by an authorised representative of the Company is expressly excluded. The Customer acknowledges that it has relied solely upon its own inspection, skill and judgement and not on any other representation, promise, statement or description.
- (B) All photographs, weights, illustrations, dimensions and other particulars given in or accompanying a quotation or order or contained in descriptive literature are approximate only and deviations there from shall not give rise to any claim against the Company.

3. ACCEPTANCE AND DELIVERY

- (A) All goods shall be at the Customer's risk on leaving the Company's premises, even if the Company has agreed to deliver the goods to a location nominated by the Customer. The Customer, at its own cost will insure the goods from the time they leave the Company's premises. The Customer will indemnify the Company against any claim or liability regarding damage or injury to or by the goods after dispatch from the Company's premises.
- (B) The Customer shall inspect the goods immediately on their arrival and within seven (7) days from that inspection give notice to the Company of any claims that the goods are not in accordance with the contract. If the Customer does not give such notice the goods shall be deemed to be in all respects in accordance with the contract and the Customer shall be bound to accept and pay for the goods.
- (C) The Company may resell any goods not taken by the Customer within seven (7) days from the date of attempted delivery and at its option deem the contract repudiated or, by subsequently substituting other goods, treat the contract as subsisting.

4. DELAY IN DELIVERY AND FORCE MAJEURE

- (A) Delivery and availability dates are approximate only. The Company will use its best endeavours to meet these estimates but is not liable for delay from any cause whatsoever.
- (B) If for any cause beyond the Company's control, the Company is prevented from or delayed in making delivery or performance the Company may either extend the time for delivery or performance for a reasonable delivery or performance the Company may either extend the time for delivery or performance for a reasonable period or terminate the contract. The Customer shall not have any claim for damages and shall pay for all deliveries made or services performed prior to the date of such termination and all expenses incurred and period or terminate the contract. The Customer shall not have any claim for damages and shall pay for all deliveries made or services performed prior to the date of such termination and all expenses incurred and moneys paid by the Company in connection with the contract. Causes beyond the Company's control shall include without limitation any act of God, war, strike, lock out, industrial dispute, governmental or semi-governmental award, enactment, priority or restriction, fire, flood, storm or tempest, delay in obtaining licences, transport, labour or materials, accidents, damage to the Company's works or business or those of its suppliers.
- (C) The time of delivery in any quotation or order represents the time at which the goods are ready for dispatch from the Company's premises and if applicable, the Company is to be allowed the further time necessary to cover transit from the Company's premises. The Company does not accept orders under penalty for late delivery.

5. WARRANTIES

- (A) **Period of Warranty** – Heavy Automatics components are warranted to be free from defects in material and workmanship under normal use and service for a period of 6 months or 1000 hours, whichever occurs first, from date of delivery to the original purchaser.
- (B) Where the Customer is a consumer as defined by any relevant law such as the Trade Practices Act 1974 (Commonwealth) and similar State laws, certain conditions and warranties ("the consumer warranties") cannot be excluded, restricted or modified. The Customer then has the benefit of both the consumer warranties and any other warranty that may be provided by the Company or by the manufacturer of the goods
- (C) Subject to clause 5(a), if any of the goods are expressly warranted by a manufacturer or supplier other than the Company, that warranty is the warranty of the Company and the Company shall have no liability in respect or any breach thereof. The Company in its absolute discretion may present such claims to the manufacturer or supplier on behalf of the Customer.

6. LIMITATION OF LIABILITY

- (A) To the extent permitted by law, the liability of the Company for a breach of the consumer warranties and/or any warranty provided by the Company is limited, at the option of the Company, to the repair or replacement of the goods or the cost of such repair or replacement or the performance of the services again.
- (B) Parts and labour for repair or replacement under clause 6(a) shall be provided by the Company during normal working hours at a place of business of the Company. The Company shall have no liability for the cost of transportation of the goods to such place or business.
- (C) The Customer's property under the Company's custody or control will be entirely at the Customer's risk as regards loss or damage from all causes to that property or caused by that property.
- (D) The Customer releases the Company from any claim action or liability for consequential loss or damage to persons or property including, without limitation, loss of use of the goods or of profits, or loss on resale, arising by reason of delays, non-delivery, defective materials or workmanship, negligence, or any act, matter, conduct or thing done, permitted or omitted by the Company.
- (E) All rejected parts or defective parts shall be the property of the Company to dispose of as it sees fit.
- (F) The Company accepts no responsibility for loss of or damage to or maintenance of secrecy with respect to any plans, drawings, samples or other materials supplied by the Customer to the Company.

7. GENERAL

- (A) These Conditions of Sale shall prevail over all inconsistent conditions in any specification, order, quotation or any other document.
- (B) The Company is only obliged to supply goods or perform services if the order by the Customer is accepted in writing by an authorised representative of the Company including without limitation, acceptance of the terms of payment. The Company at its absolute discretion may refuse any order and may refuse to proceed with any order should the Customer's trade reference be unsatisfactory to the Company.