

TERMS AND CONDITIONS OF SALE

1. **DEFINITIONS** Company: Shall mean Total Instrument Controls; Purchaser: Shall mean the company, firm organisation or person to whom this quotation is addressed and shall include his legal representatives executors, administrators, successors and permitted assigns. Quotation: Shall mean the offer by the Company to the Purchaser for the supply of equipment and/or execution of work including all documents to which reference may be properly made in order to ascertain the right and obligations of the parties under the said agreement.
2. **GENERAL** Unless otherwise stated in this Quotation the following Terms and Conditions of Sale shall apply. The acceptance of this Quotation includes the acceptance of the following Terms and Conditions and/or the special conditions (if any) stated or referred to in our Quotation unless varied in writing by the Company. Any qualification or variation of these Terms and Conditions included in any order or other document of the Purchaser shall not be binding on the Company and must be deemed to be inapplicable unless expressly accepted in writing by the Company. Where a quotation has not been supplied, the information on the Company's Invoice shall be deemed to form the basis of the quotation and acceptance, and these Terms and Conditions of Sale shall apply.
3. **VALIDITY AND ACCEPTANCE** Unless previously withdrawn, this Quotation is open for acceptance for the period stated herein or, when no period is stated, for thirty (30) days only after the date of Quotation and thereafter is subject to confirmation in writing before acceptance. Acceptance of this Quotation shall not constitute a binding Contract unless and until the acceptance has been acknowledged and confirmed in writing by the Company after receipt of the Purchaser's order. The acceptance of this Quotation must be accompanied by sufficient information to enable the Company to proceed with the order forthwith and to continue without interruption in accordance with the programme required to achieve the quoted completion date, otherwise the Company shall be at liberty to amend the prices to cover any increases in costs which have occurred after acceptance.
4. **LIMITS OF CONTRACT** This Quotation includes only the supply of such equipment, accessories, engineering, design, drawings and/or other work as specified herein. Notwithstanding the above, the Company reserves the right, as our detailed design proceeds, to make such minor changes to the equipment and work, provided that such changes shall not affect the Contract price or the agreed completion date and shall not degrade the specification or performance of the equipment.
5. **PRICES** All prices quoted are nett F.O.T. the departure point shown in the Quotation and include standard packing for delivery within Australia. Carriage will be charged to the Purchaser's account. Special packing and crating if required shall be an additional cost to the purchaser's account. The prices quoted apply only if the whole of the equipment and/or work included in this Quotation is purchased. Should the Purchaser require part supply only, the Company reserves the right to submit a revised Quotation. All prices are based on rate of exchange, marine war risk and other insurances, freight and shipping expenses, customs duty and primage, Government statutes and regulations ruling at the date of quotation and any variations between the rates ruling at the date of Quotation and those actually paid by the Company shall be to the Purchaser's account. A separate calculation of exchange adjustment will be made on any equipment of overseas origin. It shall be based on the rate of exchange applicable at the date the overseas equipment is invoiced. Should the variation in exchange rate between the date of invoice and the date that remittance is made overseas be greater than 3% an additional adjustment will be made to take account of this additional variation in cost. The adjustment will be made on the nominated overseas content or if no nomination is made the value for adjustment shall be seventy percent (70%) of the selling price for the individual items of overseas equipment. Prices for equipment not of the Company's manufacture may be varied on the basis of prices charged to the Company from the date hereof. When final design information calls for equipment and/or work, which differs from that specified in this Quotation, the Company reserves the right to adjust the prices accordingly.
6. **TITLE** Title to and property in the equipment supplied in this Quotation or Invoice shall not pass to the Purchaser until the Company has been paid all monies then owing to it by the Purchaser on any account whatever. Until such payment is made in full: a) The Purchaser shall, if the Company so requires, store or install the equipment in such a manner as to clearly indicate that it is the property of the Company; b) The Purchaser shall hold the equipment in its fiduciary capacity as Bailee for the Company; c) The Purchaser shall, if it sells or delivers the equipment in the ordinary course of business to a third party, hold the proceeds of sale on behalf of the Company to the extent of any amount then owing to the Company. In default of payment for the equipment within the time provided by the Contract or upon the Purchaser becoming insolvent, the Company may take such action as is reasonably necessary for it to repossess the equipment at the Purchaser's expense.
7. **GST** Prices do not include GST or other similar Government impost, which, if payable, will be to the purchaser's account.
8. **TERMS OF PAYMENT** Unless special terms are stated in this quotation payment shall be made within thirty (30) days of the date of our invoice. Where a contract term extends beyond two (2) calendar months, progressive payments shall be required. Unless otherwise agreed in writing, monthly invoices shall be submitted for materials supplied and services completed during the previous month. Where materials are held at our works, they shall be labelled as property of the customer upon receipt of full payment for those materials. Any monies for which an account or invoice has been furnished to the purchaser and which remains unpaid for thirty (30) days after the date such monies became due for payment shall bear interest at the rate of 1.5% per month. Any costs incurred in debt recovery on overdue accounts shall be borne by the Purchaser.
9. **CANCELLATION** The Purchaser's order may in some circumstances be cancelled only with the Company's written consent and upon payment of reasonable and appropriate cancellation charges to be determined by the Company.
10. **RETURNED EQUIPMENT** If the equipment ordered or any part thereof has been despatched to the Purchaser the equipment may be returned only after authorisation by the Company. The Company shall determine credit for returned equipment after factory inspection. Goods special in any way whatsoever, including equipment bought by the Company to special order drawings and design work carried out by the Company to special order cannot be returned.
11. **GUARANTEE** The Company guarantees that equipment manufactured or represented by the Company within the Commonwealth of Australia is free from defect in materials and workmanship under normal use and service. The Company will make good by repair, or at its option, by replacement, defects which, under proper use in the Company's opinion appear in the equipment within a period of 12 Months after the original delivery. The Company's responsibility is limited to the replacement of defective parts whether the work is carried out on site or at the Company's works. If it is necessary to return the equipment to the manufacturer for repair, all freight costs associated with the return and subsequent re-delivery of the equipment shall be to the purchaser's account. Any repairs necessary may be carried out on site provided that any travelling and accommodation costs are paid at ruling rates. Should the Company be called on to carry out work under guarantee and find that the fault lies outside our responsibility, then any cost involved will be added to the Contract price and charged to the Purchaser's account. This guarantee is in lieu of all other guarantees and warranties expressed or implied and does not apply to replacement or repairs which are required as a result of improper installation, misuse, maladjustment, modification or lack of routine maintenance by others. The Company does not guarantee the overall performance of any plant or the result of any process on which the Company's equipment is used. Equipment included in this quotation, which is not manufactured or represented by the Company within the Commonwealth of Australia, is specifically excluded from the obligation given above. Such equipment will be repaired or replaced under guarantee only to the guarantee (if any), which the Company may have received from the supplier or manufacturer of such equipment in respect thereof, but not so as to impose on the Company in respect of such equipment a liability greater than that set out herein. The guarantee does not extend to and the Company accepts no liability for consequential and/or secondary damages or losses of any kind sustained directly or indirectly as a result of a defect in any products, materials or installation.
12. **PERFORMANCE** The performance data stated in this Quotation is based on the Company's experience and knowledge of the quoted equipment and is such as the Company expect to obtain on test, however, the Purchaser shall assume responsibility for the capacity and performance of the equipment being sufficient and suitable for the purpose for which it has been purchased.
13. **DELIVERY PERIOD** The delivery period shall be calculated from the date of receipt by the Company of the Purchaser's official order and all information and drawings necessary, in the Company's opinion, to enable work to be commenced and proceed without interruption. Where the Company is to install the equipment the quoted delivery period is subject to early receipt of necessary information and full access to site in time to enable satisfactory completion. The Company will endeavour to deliver the equipment and/or complete the work ordered within the time stated in this Quotation, but the Company cannot accept responsibility for delays or liability for penalties or any loss resulting therefrom due to causes beyond the control of the Company and no Contracts shall be cancelled if delivery is extended due to such causes. Where inspection by the purchaser or his representative is required, the delivery period shall expire on the date that the Company notifies the Purchaser that the equipment is ready for inspection.
14. **INSTALLATION & COMMISSIONING** Installation, commissioning and setting to work of all equipment shall be by and at the expense of the Purchaser unless specifically agreed to in writing by the Company. Where installation and/or commissioning work is included and no specific terms & conditions are specified then the Conditions of Contract as set out in Australian Standard A.S.2124 (as amended) shall apply.
15. **DRAWINGS & PRINTED MATTER** All specifications, drawings and particulars of weights and dimensions submitted herewith are approximate only and the descriptions and illustrations contained in the Company's catalogues, price lists and other advertising matter are intended merely to represent the general idea of the equipment described herein and none of these shall form part of this Contract unless specifically stated in writing by the Company. Certified outline drawings applicable to the equipment ordered can be supplied by the Company at extra cost.
16. **PATENTS** Orders to purchaser's design are accepted subject to Purchaser's warranty that no patent or registered design rights will be infringed in the manufacture or design thereof, and upon condition that an order given on this quotation constitutes an indemnity to the Company against all expenses, damages or losses incurred by the Company in consequence of any such infringements.
17. **DAMAGE AND LOSS** Risk of loss or damage to goods shall pass from the Company to the Purchaser upon delivery by the Company to the Purchaser.
18. **FREE-ISSUE MATERIAL** The Company accepts no responsibility for the loss or damage in transit, to the Company's works, or for the commissioning or performance of free-issue material, even though the contract may provide for such materials to be installed by us. If delivery is delayed by reason of the purchaser's failure to provide free-issue material on time the work already completed will be invoiced and payment shall be due as if the equipment has been delivered. In any such case the Purchaser shall on reasonable notice have the right to verify the progress of the work by inspection during normal working hours.
19. **COPYRIGHT & CONFIDENTIALITY** The Company retains copyright of any materials generated for or on behalf of the Purchaser, whether patented or not. This includes any information in paper or electronic form, including but not limited to, operator and system manuals, databases, software programs, designs for manufacturing plant, etc. The dispensing of any of these materials to a third party may only be done with the prior written consent of The Company.
20. **MISCELLANEOUS** The validity and interpretation of this Quotation, or any Contract of Sale arising out of this Quotation, and rights and duties of the parties thereto, shall be governed by the Laws of the Commonwealth of Australia.

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