

Middle East Automation & Controls Services

Terms and Conditions of Sale

1. Applicability

(a) These terms and conditions of sale (“Terms”) are the only terms which govern the sale of the goods (“Goods”) by MACS (“Seller”) to the Buyer named in the accompanying sales order (hereinafter referred to as “Sales Confirmation”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. (b) The “Sales Confirmation” and these Terms (collectively, this “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

2. Shipping Terms/Delivery/Title and Risk of Loss

Seller shall make delivery by the date, and in accordance with the terms, set forth on the face of the Sales Confirmation. Seller shall not be liable for any delays, loss or damage in transit. Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point specified on the face of the Sales Confirmation.

3. Inspection and Rejection of Nonconforming Goods

(a) Buyer shall inspect the Goods within 3 days of receipt (“Inspection Period”). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. “Nonconforming Goods” means only the following: (i) product shipped is different than identified in Buyer’s purchase order; or (ii) product’s label or packaging incorrectly identifies its contents. (b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at Buyer’s expense and risk of loss, the Nonconforming Goods to Seller’s facility located in Lahore. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer’s shipment of Nonconforming Goods, ship to Buyer, at Seller’s expense, the replaced Goods. (c) Buyer acknowledges and agrees that the remedies set forth in Section 3(b) are Buyer’s exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 3(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

4. Payment Terms

(a) Buyer shall pay all invoiced amounts due to Seller in accordance with the terms set forth on the face of the Sales Confirmation. Buyer shall make all payments in Pak Rupees. Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder.

5. Limited Warranty

Seller's Limited Warranty is 12 months from the date of delivery. Warranty covers only workmanship fault of manufacturing; no other claim will be accepted under the warranty.

Termination

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 15 days after Buyer's receipt of written notice of nonpayment;

7. Force Majeure

The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage,

8. Confidential Information

All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

9. Governing Law/Submission to Jurisdiction

All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the Pakistan, without regard to its conflict of laws principles. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be exclusively brought in the court of law, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.