

Sietronics Pty Limited

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Sietronics
X-ray
Analytical
Specialists

General Terms and Conditions of Sale

1 – Purpose

The General Terms and Conditions of Sale are applicable to all products or services offered by Sietronics Pty Ltd (hereafter referred to as “SPL”) and unless expressly excluded shall be deemed to be incorporated into and form part of any contract in respect of any sale of such products or services as the case may be. Any amendment to these General Terms and Conditions of Sale must be evidenced in writing or may be part of the special conditions specified or agreed to in writing by SPL in a formal offer.

2 – Conclusion of Contract

- a. Catalogues or advertising documents are subject to change without notice and are supplied for indicative purposes only and have no contractual value. SPL reserves the right to make any amendments or improvements to the SPL marketed products. Selling prices are updated at regular intervals by our suppliers over which SPL has little or no control.
- b. Any order or acceptance of an offer issued by SPL automatically entails acceptance of our General Terms and Conditions of Sale and will therefore replace the General Terms and Conditions of Purchase of the purchaser.
- c. The contract of sale shall be concluded on SPL’s acceptance of the order issued by the purchaser.

3 – Intellectual and Industrial Property

- a. Plans, diagrams, technical and commercial specifications, recommendation documents, test results, software, catalogues, brochures, notices, patents, drawings and models shall remain the property of SPL or its principals. Consequently, the customer undertakes not to directly or indirectly distribute or reproduce, either for itself or on behalf of any other entity, all or any part of the sold SPL Products without the prior written consent of SPL or its principals.
- b. If the sale involves software, SPL or its principals shall grant the customer a user right but shall not under any circumstances transfer its proprietary or non-proprietary copyrights. Furthermore, SPL or its principals shall retain full ownership of the source codes of said software and specifically prohibit the customer from de-compiling, modifying or translating said source codes in any way and for any purpose whatsoever.
- c. If the products or services are produced or rendered in accordance with plans, drawings or specifications supplied by the purchaser, the latter shall indemnify and keep indemnified SPL or its principals against any claims and damages resulting from the alleged or actual infringement of industrial or intellectual ownership rights belonging to third parties arising out of SPL or its principals’ use of the documents supplied by the purchaser. If such a claim were to be made, the purchaser undertakes to assume all the expenses, costs, including any legal costs on an indemnity basis, and damages arising there from.

4 – Prices and Terms of Payment

- a. The selling prices of the products stipulated in any formal offer issued by SPL are valid for a maximum period of 30 days from the date that appears on the document unless specified otherwise. Outside this period prices are subject to periodic review without formality and without notice.
- b. Selling prices are calculated at the ruling rate of exchange of the designated foreign currency with respect to the Australian Dollar and are subject to daily fluctuations over which SPL has no control. Any variation in price in excess of \$ 100.00 between the date it was originally quoted and the date of invoicing by SPL will be for the purchaser’s account. A separate invoice or adjustment note will be issued.
- c. Prices quoted are deemed to be single unit prices, ex-factory, exclusive of packaging, freight, insurance, importation costs and all duties, taxes and GST, where applicable, unless specified otherwise.

- d. Invoices shall be paid within thirty days of invoice date without discount using any one of the various payment options offered. Any delay in payment shall automatically trigger recovery action, which may, in addition to the commencement of legal proceedings, lead to reduced credit facilities offered or existing credit facilities being cancelled.
- e. For orders exceeding a total value of \$ 10,000 excluding duties and taxes, freight and other importation costs, a pre-payment of 30% of the order value may be required on acceptance of the order. The balance shall be payable within 30 days from the delivery date and where applicable within 30 days from the installation & commissioning date.

5 – Retention and Transfer of Title

- a. SPL shall retain title and ownership of any products supplied until payment of the full amount invoiced is received by SPL. Notwithstanding the above, the burden of risk associated with the purchase shall be transferred to the purchaser at delivery.
- b. In any event, the purchaser undertakes, until actual transfer of ownership has taken place, to inform his lessor and/or creditors, if applicable, that the said products are not his property and cannot be moved without the prior consent of SPL and to advise SPL of any physical or legal incident that may affect them or otherwise prejudice the rights of SPL in respect thereof.

6 – Delivery and Transfer of Risks

- a. Delivery shall entail the transfer of all risks and benefits linked to the products sold. It shall take place on the occurrence of any of the following events: delivery of the products to the purchaser at its usual place of business (or as otherwise notified in writing by the purchaser), or by delivery of products or bills of lading to a forwarding agent or carrier nominated by the purchaser.
- b. The commencement date for calculation of the delivery period shall be the date of acceptance of the written order by SPL. SPL shall inform the customer as soon as possible of any circumstances or events which may result in a delay in delivery.

7 – Acceptance of Products and Product Returns

Inspection and acceptance of products shall be the purchaser's responsibility. The Purchaser shall report any discrepancy in shipment quantity or damage within 10 working days after delivery. No return of goods shall be accepted without a Return Goods Authorisation (RGA). Returned goods must be in the original manufacturer's shipping cartons complete with all packing materials. All products for return shall be returned freight prepaid. A 15% restocking fee is associated with all returns.

8 – Guarantee

SPL undertakes to honour the original manufacturer's product warranty. This will vary from product to product and details are available upon request. All SPL supplied equipment must be used by appropriately trained operators in accordance with the instructions presented in the equipment operating manuals. No warranty will apply due to any defect caused by misuse, negligence, accidents or as direct result of a failure to carry out proper maintenance service. However all products, except consumable or worn items, and spare parts, shall be guaranteed against manufacturing and assembly defects and any raw material defects for one year from delivery subject to proof of the existence of said defects unless specified otherwise. The guarantee covers parts and in some cases labour, but unless otherwise agreed, this warranty specifically excludes the associated costs of any form of transport or movement of product, equipment or service personnel. All repairs shall be carried out either on designated SPL premises or on the site on which the product or products are being used. This will be at the sole discretion of SPL and shall not imply an extension of the guarantee beyond the stated term. SPL reserves the right to make modifications to the product in order to carry out the above mentioned repairs on the understanding that the ownership of any part replaced free of charge reverts to SPL. In any event, implementing the guarantee shall not authorise the purchaser to defer all or part of the payment.

9 – Limitation of Liability

Ownership, operation and storage of some equipment sold by SPL is subject to the Code of Practice for Protection Against Ionizing Radiation Emitted from X-ray Analysis Equipment (1984). Owners and users of X-ray analysis equipment requiring information regarding their obligations under the radiation control legislation should refer to the statutory authority in their state or territory. Obtaining the statutory permits and licences is the purchaser's sole responsibility.

It is up to the users of SPL sold products to take all necessary safety measures and ensure that they are used only in such a way that a failure in any of the SPL products cannot be the cause of a loss. The purchaser hereby acknowledges that it has been informed and is fully aware that the products supplied by SPL must be used only under conditions such that they cannot be a direct or indirect source of danger to persons or property. The purchaser shall alone determine the conditions of installation and use of the SPL supplied products on the understanding that he/she declares that he/she has been advised of and is fully aware of and understands the essential safety factors relating thereto by these General Terms and Conditions.

He/she shall therefore assume the sole liability for any events causing a loss, including any loss caused as a consequence of personal accident, property damage or loss of earnings, where they arise out of matters relating to the installation or use of products supplied by SPL.

In any event, if the loss is the result of the failure of a SPL supplied product, SPL shall not under any circumstances be held liable for any indirect losses such as financial, commercial and/or technical losses resulting from that loss and the purchaser agrees to indemnify SPL and keep it indemnified in respect of any claim for any such loss or alleged loss.

10 – Export Control and Use

The purchaser agrees and represents that it is buying for its own internal use only and not for resale unless otherwise agreed. The sale, resale or other disposition of SPL supplied products and any related technology or documentation may be subject to the export control laws, regulations and orders of the United States, EEU and other jurisdictions and may be subject to the export and/or import control laws and regulations of other countries. The purchaser agrees to comply with all such laws, regulations and orders and acknowledges that it shall not directly or indirectly export any Products to any country to which such export or transmission is restricted or prohibited. The purchaser acknowledges its responsibility to obtain any licence to export, re-export or import as may be required.

11 – Force Majeure

SPL shall not be liable for any delay in or non-performance of any of its contractual obligations if such performance is prevented by circumstances of Force Majeure. Force Majeure is defined as any unforeseeable, irresistible or other event or incident out of SPL's control. By express agreement of the parties, Force Majeure shall include all natural catastrophes, any regulation or requirement of the public authorities, any non-availability of raw materials, boycotts, strikes, attacks or acts of war, whether declared or not, or terrorism.

The purchaser shall not be liable for any delay in or non-performance of its contractual obligations if such performance is prevented by circumstances of Force Majeure. A purchaser invoking circumstances of Force Majeure must advise SPL accordingly within seven days of the occurrence or threat of those circumstances. If the delay caused by Force Majeure lasts more than thirty days, SPL reserves the right to cancel the order.

12 – General Provisions

Severability: If any of these provisions were to be declared null and void under the terms of any law, that provision shall be deemed to be excluded, without affecting the validity of the other provisions.

No Waiver: The fact that SPL may not avail itself of any of the provisions of these General Terms and Conditions of Sale may not be interpreted as waiver of its right to subsequently avail itself of any such provision.

Applicable Law and Settlement of Disputes: These General Terms and Conditions of Sale shall be governed by Australian Law. By express agreement of the parties, before any dispute relating to the formation, existence, interpretation, performance, termination or cancellation of the order or in respect of these General Terms and Conditions of Sale can be referred to any Court it must first be subject of a bona fide attempt at amicable settlement. Any dispute the parties cannot resolve by amicable agreement within one month of its notification in writing shall fall within the jurisdiction of the Courts of the place in which the invoice was raised.

