

LEX-JURIS
Advocates & Solicitors
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C.K. Daftari Block
Supreme Court of India,
New Delhi

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Off- C-65, LGF,
Malviya Nagar,
New Delhi-17

General Terms and Conditions of Delivery and Sale of UWT Level Control India Pvt.Ltd (hereinafter referred as "UWT India") For Sales Ex-Haryana

The subsequent terms and conditions are applicable for all sales and deliveries if nothing else has been agreed in writing.

1. SCOPE

- 1.1. Our delivery of goods and services are subject to these Conditions of Sale and additionally the applicable statutory law only. Terms that vary therefrom, including any general conditions of purchaser, shall only be considered binding if they have been confirmed by us in written form. Our delivery of goods, performance of services or acceptance of payments does not constitute acceptance on our part of terms that vary from these Conditions of Sale and the applicable statutory law.
- 1.2. We do not accept conditions of the customer which contradict or deviate from our conditions of sale unless we have agreed to these in writing on an individual basis. Our conditions of sale shall also apply if we perform the delivery to the customer without any reservations in spite of knowing the conditions of the customer opposite or deviating from our conditions of sales.
- 1.3. Our quotations are subject to change, supply contracts and all other agreements (including subsidiary agreements) as well as declarations made by our representatives shall not be legally binding upon us until confirmed by us in writing.

2. OFFER

- 2.1. Our offers are without engagement unless we expressively give a written consent. An order is only accepted by our written confirmation (order confirmation). Contracts concluded by confirmation cannot be cancelled without our approval. Any technical changes which are required by the purchaser later on allow us to change the price in the frame of the additional costs incurred hereby.
- 2.2. We reserve the right of property and copyright for illustrations, drawings, calculations and any other documents. This also applies for such written documents which are marked with "Confidential". Before forwarding such documents to third parties we must give our expressive approval in writing to the customer.
- 2.3. Technical data, illustrations, drawings, indications of weight and dimensions are only binding if they are confirmed by us in writing. We reserve the right to make changes on the design. Any information in leaflets or operating instructions shall not apply as an agreement of features. The purchaser must check the usability of our goods at his own responsibility.

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- 2.4 Our employees are not authorized to make oral collateral agreements or promises going beyond the contents of the written contract, or to change these **General Terms and Conditions of Delivery and Sale** to our disadvantage.

3. PACKING & FORWARDING

02% of the invoice value will be charged extra for standard packing and for sea-worthy packing rates would be 05% of the invoice value

4. FREIGHT

Shipments shall take place through our approved transporters by standard surface mode only if unless otherwise stated separately. You are advised to instruct if the goods are to be dispatched on a "To Pay" basis. Where no such instruction is received, freight will be charged at 02% of the invoice value. If goods are not cleared within 15 days from receipt of the material by our approved transporters, demurrage charges would be applicable. Service tax, if payable by UWT India on freight charges, would be invoiced separately by UWT India. For emergency requirement, if customer specifically asks for Air Shipment, freight has to be borne by the customer on "To Pay" basis only.

5. TRANSIT INSURANCE

Insurance shall be arranged for by Buyer/customer. Alternatively, 01% of the order value may be charged towards insurance. Instructions in writing must be sent along with Purchase Order.

6. GSTIN:

If purchaser is falling under any of the categories of GST registration criteria then customer should mention their GST registration number in purchase order.

7. PAN/TAN:

Where the customer is falling under category who is required to register for PAN number shall mandatory mention their PAN/TAN in Purchase order.

8. PURCHASE ORDER – STATUTORY REQUIREMENT

- 8.1 Following statutory details in the Purchase order for "BILL TO" as well as "SHIP TO" address to be mentioned by the buyer;
- a) GSTIN
 - b) PAN
 - c) In Case of EOU/SEZ Unit -Letter of Permission No., Import-Export Code No. and Green Card No. – if any
 - d) Income Tax – Permanent Account No. (PAN)

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- e) Contact Persons Name, designation, address, phone numbers and email address.
 - f) Bankers details (wherever applicable)
 - g) Declaration forms, if any for concessional or NIL rate of tax charged.
- 8.2 Orders under Exemption Certificate etc. would be acceptable subject to the condition that the required valid documents would be submitted within a reasonable period of time i.e. within 10 days of LOI/FOI/PO, failing which the liability would be passed on to the Buyer along with necessary penalty and interest as applicable.

9. DELIVERY

- 9.1. Delivery dates are non-binding; unless they are confirmed in writing by us. The beginning of the time of delivery specified by us implies that all technical questions have been clarified. If the cooperation of the purchaser is required for the fulfillment of the contract the delivery term only starts with the rendering of the act of cooperation by the purchaser such as e.g. with the receipt of the documents which the purchaser shall submit as well as a possibly agreed down payment. We reserve the right to object to unfilled contracts.
- 9.2. In the event that the customer is in default of acceptance or if he culpably violates other obligations of cooperation, we shall be entitled to demand compensation for the loss resulting to us in this respect including any extra expenditure. All further claims or rights are reserved. Provided that the conditions for this are causing the risk of a chance loss or a chance deterioration of the item for delivery passes to the customer at the time of its acceptance or debtor's delay.
- 9.3. In so far as delivery is arranged as "ex works" the period of delivery has been observed if the goods are made available for the purpose of collection within the agreed term.
- 9.4. Force majeure, stoppages, strikes or other hindrances that are not our fault at our premises or at the premises of our supplier shall release us from our obligations to deliver for the period of interruption and its effects. We will inform the customer immediately of such an event. Should the impeding circumstances still continue one month following the expiry of the agreed period for performance either party may withdraw from the contract. This also applies to the reservation that there are for the fulfillment of the contract no barriers because of national and/or international regulations of foreign trade legislation or any embargoes and/or sanctions to be opposed. Further claims by the customer due to exceeding the period for performance for reasons that are not our responsibility will be excluded.
- 9.5. If customer breaches its duties of cooperation (e.g. by failing to call off shipments in due time or refusing acceptance), we shall be entitled, after fixing a period of grace without effect, to take the necessary measures ourselves and deliver the goods or to

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- cancel the part of the supply contract still uncompleted. This shall not affect our right to demand damages for breach of duty or damages in lieu of performance.
- 9.6. Acts of force majeure shall appropriately prolong the delivery time and shall entitle us to rescind the contract wholly or in part. Considered as force majeure shall be strikes, lockouts, business disruptions or other unforeseen circumstances for which we are not responsible and which significantly impede delivery or render delivery impossible for us. This shall equally apply if the stated circumstances arise during default or in regard to a subcontractor.
- 9.7. An overstepping of the period or of an agreed date shall entitle customer to request a declaration from us within two weeks as to whether we intend to rescind or deliver within a reasonable period of grace. If we make no declaration, customer may cancel the contract if fulfilment is of no interest to customer. If acceptance fails to take place or does not occur in due time or in full, we shall be entitled to store or ship the goods at customer's expense and risk; thereupon the goods shall be considered as accepted.
- 9.8. Liability for any loss of profits or any other consequential losses, including liability for loss of income which can otherwise customarily be achieved with the sold product(s), shall be ruled out.
- 9.9. If the Purchaser fails to accept delivery on due date, he shall nevertheless make payment as if the delivery of the Goods had been accepted. The Seller shall arrange for the storage of the Goods at the risk and cost of the Purchaser. If required by the Purchaser the Seller shall insure the Goods at the cost of the Purchaser.
- 9.10. For standard items, the instrument would be delivered within 12-14 weeks from the date of receipt of technically and commercially clear PO along with approved datasheets / Quality Assurance Plan ("QAP")/ drawings and advance payment (whenever applicable). This is subject to confirmation. Shorter deliveries can be offered, and would have effect where agreed to in writing, after specific written confirmation at the time of finalization of the PO.
- 9.11. In the event that the shipment of the equipment is delayed because of circumstances for which the customers are responsible, the risks pass to the customers upon the notification of readiness for shipment of the goods; - The goods may, at the discretion of the Seller, be stored on the account of the customer at the Seller's Warehouse / depot beyond two weeks but at a cost of at least 1.5% per month of the invoice amount of the goods or INR.5,000.00 whichever is higher; The Sellers are entitled to withdraw from the contract or demand compensation in damages because of nonperformance having granted appropriate grace period which has expired; The costs, risks and required formalities resulting from delayed instructions of the Buyer shall be borne by the Buyer.

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ORIGINAL ORDER TO BE PLACED ON:

UWT Level Control India Pvt. Ltd.
Shed No. B, Khasra No. 3/19/2, 20/1/2, Tehsil-Farukh Nager,
Gurgaon, 122506, Haryana, India

10. SHORT SHIPMENTS & TRANSFER OF OWNERSHIP

- 10.1 The Seller is entitled to part shipment of the equipments being sold. However, claims related to Delivery Discrepancy (if any) to be reported in writing, within 18 hours of receipt of cargo. Claims received beyond this period will not be entertained / honored. Material supplied from Seller to Buyer shall be deemed to have taken place Ex-Seller's works/premises, on the date the goods have been consigned to the Buyer, and a Lorry Receipt (LR) has been obtained by the Seller.
- 10.2 If delivery "ex-warehouse" has been agreed the risk shall pass to the purchaser as soon as we have transferred the goods to the transportation company or as soon as we have made them available to the purchaser. If dispatch is delayed due to circumstances that the buyer is responsible for then then risk is transferred to the purchaser with the message of readiness to ship. In this case, we will be storing the goods at the purchaser's cost and risk; for storing the goods in our factory we will charge a minimum of 1.5% of the invoice value of the delivery stored per month. The purchaser will be free to prove that no damage has been encouraged or that the damage is significantly less than the demanded fee. Any further claims for damages of UWT shall remain unaffected.

RETENTION OF TITLE:

- 10.3 The goods sold shall remain our property until all our claims against purchaser arising from our business relationship with purchaser have been satisfied.
- 10.4 If the goods have been processed by purchaser, our retention of title shall extend to the new products. If the goods have been processed, combined or mixed by purchaser with goods of others, we acquire joint title pro rata to that part of the new products representing the invoiced value of our goods in relation to the total value of the other goods which have been processed, combined or mixed.
- 10.5 In the event our goods are combined or mixed with goods of purchaser or of any third party, purchaser hereby assigns to us its rights with regard to the new products. If purchaser combines or mixes our goods with goods of a third party for payment, purchaser hereby assigns to us its right to payment from such third party.
- 10.6 Purchaser may, in the ordinary course of its business, resell any goods which are subject to our retention of title or sell the new products. If, upon such sale/resale, purchaser does

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not receive the full purchase price in advance or upon delivery of such goods or new products, purchaser shall agree with its customer a retention of title arrangement on the same terms as set out herein. Purchaser hereby assigns to us all its claims arising from such sale/resale and its rights arising from the said retention of title arrangement. Upon our request, purchaser shall inform its customer of such assignment of rights and provide us with the information and documents necessary to enforce our rights. Notwithstanding the foregoing, purchaser shall only be entitled to collect payments from claims arising from such sale/resale if purchaser has satisfied its liabilities to us.

- 10.7 In the event that the security interests granted to us exceed the value of our claims, we shall, upon request of purchaser, release such security interests as we deem appropriate. The exercise of our right of retention of title may only be regarded additionally as a rescission with our prior consent made in writing.

11. ROAD PERMIT / WAY BILLS

The Buyer will obtain and furnish, applicable Road permit, Way Bills, etc. that will be required during the transportation / shipment of the goods ordered. Any delay or costs arising there from, in delivery of the ordered goods, on account of delay in submission of the said statutory forms will in no manner be attributed to UWT India.

12. DOCUMENTATION & CERTIFICATION

One complete set of documents is included in the scope of supply. If several documentations are ordered by the purchaser the incurring cost will be invoiced. The technical data, illustrations, drawings, weight and dimension details are only binding if they have been confirmed in writing by the Seller. Property rights and copyrights in drawings and other documentation would belong to the Seller and may not be made available to any third party without the prior written approval of the Seller.

13. QUALITY CHECK & INSPECTION

UWT Group manufacturing units are ISO9001 certified. Since all instruments go through stringent quality checks, no prior inspection is necessary, however, on special request inspection may be held at the warehouse of UWT India located in Haryana, as per condition mentioned hereunder

- 13.1 A right of inspection is applicable only for order exceeding value of more than INR.500,000.00 (Rupees Five Lacs only). The QAP shall be enclosed along with the Purchase Order. Any inspection permitted would be offered as a onetime inspection only and would be limited to a physical and functional check, which involves powering on the instrument at the service station.

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13.2 Inspection should be carried out within 7 days from the inspection call notice. In the event there is no response to an inspection call to be conducted by the Buyer within 7 days of the inspection call notice, the goods will be dispatched assuming that the right to inspection has been waived off. Inspection release note to be issued within 7 days of the actual inspection date, failing which goods will be dispatched on the basis that the inspection was satisfactory.

13.3 UWT India Inspection charges @ INR.10,000.00 per day + Tax will be applicable. If third party inspections have to be arranged, then it would be borne by the customers at actual.

14. CHANGES / CANCELLATION

Any technical changes made in the order subsequent to acceptance and processing of the order will attract additional 30% cancellation / amendment charges, in addition to the costs of the new instruments added. Any arbitrary cancellation of the order after acceptance and processing will also attract a compulsory 30% cancellation charge on the P.O. Value.

15. PRODUCT COMMISSIONING AND FIELD SERVICES

UWT India will be pleased to provide Commissioning and Services for technical assistance & expert guidance throughout India by skilled technical personnel. In case buyer would like to avail these services, the following charges will be applicable within India and will have to be separately ordered in the PO or a separate Work Order to be placed.

15.1 Visit charges (Excluding Service Tax) per man days (up to 08Hrs) within India For all Standard UWT products: INR. 10,000.00 (Rupees Ten Thousand only)

15.2 Emergency services i.e. service provided within 48 hrs. of work order then it is agreed that there will be an escalation of 25% on the rates as stated in above.

15.3 Overtime charges for work carried out beyond 08 hrs. will be charged at the rate of INR. 1,500.00 per additional hour.

15.4 Travel expenses will be claimed at actual based on Economy Air fare, II AC Rail fare or Taxi Fare as applicable.

15.5 Boarding and lodging will be claimed at actual as applicable

16. WARRANTY

Goods (except for spare parts and consumables) are warranted for twelve (12) months from the date of initial installation or eighteen (18) months from the date of invoice by Seller, whichever period expires first.

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The Seller warrants that such Goods manufactured or Services provided by Seller will be free from defects in materials or workmanship under normal use and care until the expiration of the applicable warranty period.

- 16.1 Any visible defects (Quantity, identity and packaging damages, etc.) must immediately be claimed by the purchaser latest within 7 working days upon receipt of the goods. If Buyer discovers any warranty defects and notifies Seller thereof immediately in writing during the applicable warranty period, Seller shall, at its sole discretion, correct any errors that are found by Seller in the firmware or Services, or repair or replace ex-works point of manufacture that portion of the Goods or firmware found by Seller to be defective or refund the purchase price of the defective portion of the Goods/Services.
- 16.2 A warranty claim will be decided only on the basis of the failure analysis by our designated Service Team. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable environmental conditions, accident, misuse, improper installation, modification, repair, storage or handling, or any other cause which is not attributable to the Seller is not covered by this limited warranty, and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by the Buyer or any other party.
- 16.3 All costs of dismantling, reinstallation and freight under this warranty clause shall be borne by the Buyer. Goods repaired and parts replaced during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer.
- 16.4 Except as otherwise expressly provided in the Agreement, there are no representations or warranties of any kind, express or implied, as to merchantability, satisfactory quality, acceptable quality, fitness for particular purpose or any other matter with respect to any of the goods or services. The forgoing sets out Buyer's exclusive remedy for breach of warranty.

17. LIMITATION OF REMEDY AND LIABILITY

- 17.1 The remedies provided by the seller, for the times specified, are exclusive. Seller shall not be liable for damages caused by delay in performance. The sole and exclusive remedy of the breach of warranty hereunder shall be limited to repair, correction, replacement or refund of purchase price, at the option of the Seller under the limited warranty clause. In no event, regardless of the form of the claim or cause of action whether based in contract, infringement, negligence, strict liability, other tort or otherwise, shall Seller's aggregate liability to Buyer and/or its customers exceed the price to Buyer of the specific goods manufactured or services provided by seller giving rise to the claim or cause of action. Buyer agrees that in no event shall Seller's liability to Buyer and/or its customers extend to include special, indirect, incidental or

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consequential damages, damage to or loss of property or equipment, increased costs or any kind including, but not limited to, cost of operation or maintenance, fuel cost or cost of purchased or replacement power. The terms "consequential damages" shall include, but not be limited to, loss of anticipated profits, loss of use, loss of revenue and cost of capital.

- 17.2 Any contract penalty provisions of a customer in customer's general terms and conditions of business shall not be accepted and shall therefore not constitute a part of the contract.
- 17.3 The above provisions shall apply in equal measure to our vicarious agents and officers. No change in the burden of proof to the detriment of customer is associated with the above provisions.

18. SECRECY

- 18.1 If samples, drafts, plans, drawings or other technical information are required from a customer UWT undertakes to keep them confidential and shall not without special consent use them for any other purposes or make them accessible to third parties or to the general public and shall use them for the designated purpose only.
- 18.2 The purchaser shall treat confidential any and all information received regarding samples, plans, drawings or any other technical information. He shall not use them in any other way or make them available to third parties. In case of any infringements the purchaser is obliged to replace us any damages resulting hereof. A confidentiality obligation does not apply if the information are publicly available or become known at a later state without breach of this obligation or if the customer obtains the information from third parties in lawful manner for free use and without any possible obligation of secrecy.

19. PAYMENT & PRICING

- 19.1 Payments shall be considered as having been made only as far as the Seller is able to dispose of them at a bank. In the event of a delay in payment from the agreed payment due date Interest @ 24% per annum will be charged for the overdue period. In the event that in the reasonable opinion of the Seller, the Buyer has suffered a material deterioration of its financial position which could affect its claims, the Seller would be entitled to withdraw from the part of the contract yet to be performed or demand prepayment against delivery. Nothing contained in this clause will affect the claims against the Buyer for that part of the contract already performed by the Seller.
- 19.2 The prices stated by us apply unless otherwise agreed in individual cases, ex warehouse –Haryana. Packing, Forwarding, Freight, Transit Insurance etc. as well as the applicable Taxes at the time of delivery, are extra payable by the customer. For

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orders which shall be delivered more than 4 month after the conclusion of the contract, deliveries shall be made on the basis of the valid price at the time of delivery

19.3 Our offer, are calculated based on prevailing exchange rate. Any movement in the EURO rate up to +/- 3% at the time of placement of order will be acceptable to us. For any movement beyond the above mentioned +/-3%, prices shall have to be re-negotiated. This is in view of the prevailing high fluctuations in the EURO-INR currency market rates.

19.4 In the case of payment default, failure to honourcheques or bills of exchange, suspension of payments, institution of debt settlement proceedings, non-compliance with payment terms and conditions or in the presence of circumstances conducive to diminishing customer's creditworthiness, all of our outstanding accounts – including in cases of respite – shall become due immediately.

20. Notices, information and statements Notices

Notices, information and statements Notices, information, statements and samples made or supplied by the Company, in whatever form or nature, shall only be indicative and shall never bind the Company, unless the agreement explicitly provides for the contrary.

21. GOVERNING LAW AND DISPUTE RESOLUTION

Any obligations arising under or in connection with the subject matter of this Term Sheet shall be governed by, interpreted by and construed in accordance with the laws of the Republic of India and all matters relating to Agreements will be adjudged by the courts located within Delhi-NCR. Any dispute, claim or controversy arising out of or in connection with the subject matter of these Terms and Conditions and subsequent PO shall be finally settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996 with latest amendments.

22. SEVERABILITY

If any provision in these General Terms and Conditions of Sale, Delivery and Payment or any provision under other agreements between customer and ourselves is or becomes ineffective, this shall not affect the effectiveness of any other provisions or agreements. Furthermore the laws of the Republic of India shall apply exclusively unless otherwise agreed.

23. EXEMPTIONS

Any exemptions from these terms and conditions of sale, notably due to provisions in the buyer's general or specific terms and conditions can only be applied once we have given our agreement in writing.

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24. GENERAL

The Company reserves the right to make any changes to modify / change / addition / deletion any of these Terms & Condition, as and when management of the company thinks fit to do so, without any prior intimation.

Date: 12/09/2017
New Delhi

Vetted by:


Rajnish Kumar
(Advocate)