

ANALYTICAL TECHNOLOGY & CONTROL LIMITED.
CONDITIONS OF SALE

ISSUE 3, 1st AUGUST 2001.

1. **APPLICATION:** These conditions shall come into force on our acceptance of your order. If there is any conflict between these conditions and the terms of your order these conditions shall prevail except to the extent that we have agreed in writing that they are excluded or varied.

2. **DELIVERY:** Unless otherwise agreed in writing the delivery periods stated shall run from the date of our acceptance of your order or from the date we receive full information from you to enable us to proceed with uninterrupted manufacture whichever shall be the later. Delivery periods stated end on the date that the equipment is completed ready for inspection at our works, or if no inspection is called for in your order, ready for despatch ex-works. If you do not issue shipping instructions to us within 45 days from your receipt of our notification to you that the goods are ready for inspection or despatch we shall have the right to place the goods in a sound safe store located as we think fit pending receipt of your instructions. In this event delivery will be regarded as complete for the purpose of the contract and we shall have the right to receive payment in full for the goods and to recover from you all reasonable costs of storage at the rate of 1% of contract value per month or part thereof.
The goods will be stored entirely at your risk and we shall not be liable for any damage to the goods arising out of our negligence.

3. **PRICES:** Unless otherwise stated our prices are valid for 60 days from the date of the quotation and are firm for the delivery period stated in the quotation. If we are unable to fulfil your order in accordance with its terms because of a change in instructions or lack of instructions from you we shall be entitled to an increase in the price of the goods. The prices are exclusive of value added tax and we shall be entitled to recover from you at the time of payment in addition to the contract price, the amount of value added tax that we liable to pay in respect of goods and services supplied under the contract. Orders are subject to a minimum invoice value.

4. **PAYMENT:** Payment will be due in full, including applicable value-added tax, within 30 days of the invoice date. If you do not make payment within the time stated, we shall be entitled to charge interest on the amount owed at 1% above our bank base rate in force at the time that payment was due. We shall be entitled to make part shipments of the equipment ordered and in this event invoices will be submitted for each shipment. You will have no right of set off in respect of any claims against us.

5. RETENTION OF TITLE:

- (i) Title to goods subject of this Contract shall remain vested in us until paid for in full by you. Until such payment you shall hold the goods as bailee on behalf of and in a fiduciary capacity for us.
- (ii) Until such time as we have been paid in full you shall store goods supplied by us in such a way as to be identifiable as our property.
- (iii) If prior to making full payments for the goods, you sell them to a third party the proceeds of that sale shall be held on trust for us and placed in an account of yours in such a way as to be identifiable as being in our beneficial ownership.
- (iv) In the event of non-payment by you by the due date we shall be entitled, in addition to all other rights, to enter upon any land or premises where our goods are located and recover possession of them
- (v) You shall keep our goods in proper condition; insure them and keep them insured against all risks in the full value thereof and shall notify the insurer of our legal and beneficial interest in the insured goods; upon request produce to us a copy of the insurance policy; and, in the event that all or part of our goods are damaged or destroyed by an insured risk, aid us in recovering the insurance value of the damaged goods in every way.
- (vi) The risk of loss or damage to our goods shall pass to you on delivery.
- (vii) You shall not be deemed to be our agent for any purpose other than as maybe necessary to give effect to sub-paragraphs (i) and (iii) of the Clause and you shall indemnify us against any liability that we may incur to third parties (whether in contract, tort or otherwise, and including all our expenses attributable thereto) in connection with our goods, other than liability, which would have arisen if the proceeding sections had not formed part of these Conditions of Sale.

6. **CARRIAGE AND PACKING:** We will arrange carriage of the goods, if requested, at your cost and as your agent. We will not be liable for any loss or damage consequential or otherwise incurred by you as a result of damage to goods in transit. The risk in the goods shall pass to you when the goods have been delivered to you or your agent or the carrier or when they leave our premises whichever shall occur first. If you do not receive the goods you must notify us in writing within the following times from the date of despatch:

| | |
|--------------------------------|---------|
| PARCEL POST..... | 10 Days |
| BRITISH RAIL, PASSENGER..... | 7 Days |
| BRITISH RAIL, GOODS..... | 14 Days |
| NATIONAL CARRIERS LIMITED..... | 14 Days |
| ROAD CARRIER..... | 7 Days |

No claim for non-delivery by us to you or your agent or the carrier will be accepted unless this condition is fulfilled.

If any claim for damage is made which is related to the way the goods were packaged at the works, then the goods and packing must be retained intact. Full particulars quoting reference numbers must appear on all correspondence in order that the consignment is readily recognised.

7. **INSPECTION AND TEST:** In the case of inspection or test at our works or on site which may be necessary or called for on your order we will give you seven working days notice in writing that this inspection or test is ready to be carried out. Any inspection or test requested by you may be charged for in addition to the quoted price unless the cost is already included in our quotation. In the event of failure or delay on your part to attend the inspection or test we shall be entitled to proceed with them in your absence and we will certify to you in writing the results of the tests, and regard the inspection as waived and for the purpose of obtaining payment, the test or inspection shall be deemed to have been carried out in your presence.

8. **LIMITATION OF LIABILITY:** We will indemnify you against direct damage to property or personal injury arising out of our negligence, provided that our total liability for damage to your property shall not exceed 250,000 Pounds Sterling. Neither party shall be liable to the other for any loss of profits, production or contracts arising out of this contract.

9. **MODIFICATION AND EXTRA WORK:** If you require modification to the goods being supplied and in our opinion the modification will involve us in extra cost or prevent us from fulfilling any of our obligations or warranties we will immediately notify you in writing giving full details before proceeding. If you then confirm in writing your instructions the price of the goods and our obligations shall be modified as agreed and we shall carry out the modifications.

10. **LAWS:** These conditions shall be governed and construed in accordance with the laws of England and both parties submit to the non-exclusive jurisdiction of English Courts.

11. **ACTS OF BANKRUPTCY:** If you become bankrupt or insolvent or commence a winding up by reason of insolvency, not being a member's voluntary winding-up for the purpose of amalgamation or reconstruction, we shall be entitled to cancel the sale wholly or in part by notice to you in writing. We shall be entitled to recover from you any direct costs we incur as a result of cancellation.

12. **PATENTS:** We warrant that any goods sold to you as a result of this contract do not infringe any valid UK or USA patent in existence at the date of delivery, except for goods made specifically for you according to your specifications. This warranty is given upon condition that you promptly notify us of any claim or suit in which you are involved in which an infringement is alleged, and if we are effected, that you permit us to control completely the defence or compromise of any such allegation or infringement. Our warranty as to use only applies to infringements arising solely out of the inherent operation of such goods or of any combination of goods sold hereunder in a manner designed by us.

13. **CONFIDENTIALITY:** You shall keep confidential and not, without our prior consent, disclose to any third party any drawings, designs or information acquired from us by means of our tender or the contract unless it is for the purpose of;

- (a) Adjudicating our tender and / or
- (b) Carrying out the contract and / or
- (c) Operation of the goods

in which case this obligation of confidentiality shall be extended to the third party by you. We undertake to keep confidential and not to disclose, without your prior consent, to any third party any trade or business secrets or similar confidential information supplied by you to us relating to your plant or processes or those of your customer, except as maybe necessary for the proper performance of the contract.

14. **WARRANTY:** We warrant that the goods supplied of our manufacture will be free from defects in materials or workmanship under normal use and service until the expiry of the earlier twelve (12) months from the date of initial operation or eighteen (18) months from the date of despatch from our works providing that the proper preventative maintenance and calibration procedure as listed in the manual have been followed. If within the said 12 or 18 month period and within thirty (30) days after your discovery of any warranty defects you notify us in writing of these defects, we shall, at our option, replace or repair, ex-works, that portion of the goods found by you to be defective, provided that on our request the goods are promptly returned to us carriage pre-paid. If you fail to give written notice within the applicable time period we shall be entitled to regard that as an absolute waiver of your claim for such defects. Goods repaired and parts replaced during the warranty period are warranted for the remainder of the warranty period, or for six months, whichever is the greater. When items not of Analytical Technology and Control Limited manufacture are specified by you to be supplied by us under the contract then, insofar as we are able, will pass onto you the warranty given by the original manufacturer of that item. Note parts which are normally considered to be consumables (i.e. fuses, bulbs, filters, electrochemical cells etc.) fall outside this warranty and would normally only be replaced by ATAC if it can be shown that faulty parts were supplied.

If any part of the goods is repaired or refurbished by you at any time during the warranty period with any parts which are not items specified by Analytical Technology and Control Limited then we will not warrant such items, nor will we accept any responsibility for damage to the goods occasioned by the use of these items. Our liability under this clause is instead of any conditions or warranty implied by law as to the quality or fitness for any particular purpose of the goods.

15. **FREE ISSUE MATERIAL:** We shall be responsible and account for any material issued to us by you or your customer. We shall replace at our cost all such material which is lost, is improperly used or is damaged for any reason other than caused by the neglect of yourself or your customer and arrange adequate insurance cover against these risks. We shall return to you all material, which is not used by us in carrying out the contract.

16. **EXCUSE OF PERFORMANCE:** The time for completion shall be extended or deliveries or incomplete items suspended in the event that either party is prevented from fulfilling its obligations, or fulfilment is made materially more difficult or expensive by circumstances beyond its reasonable control, which shall include, but not be limited to, Acts of God, war, riot, fire, explosion, accident, flood, sabotage, lack of or delays in obtaining adequate fuel, power or raw materials, government regulations and industrial dispute. We shall be relieved of liability for late delivery if this is caused by change of instruction or lack of instruction from you.

17. **SOFTWARE COPYRIGHT.** The software materials are copyright and are not sold outright. The database and query program is leased on an annual license. Purchase of a lease conveys to the Purchaser the right to use the program and database for a period of one year from the date of shipment. You do not purchase the right to own, copy, distribute or modify the program or database. The standard system is licensed for single user access at a single business location. The network version is licensed for multiple concurrent users at different locations.