

TERMS AND CONDITIONS OF SALE

1. Definitions

In these terms and conditions the following expressions will have the following meanings:

- 1.1 "Seller" means Spring (Europe) Ltd.
- 1.2 "Buyer" means the person placing an Order with the Seller.
- 1.3 "Order" means the order placed by the Buyer with the Seller for the supply of Products or Services.
- 1.4 "Products" means the hardware or software that is the subject of the Order placed with the Seller.
- 1.5 "Services" means any commissioning, training, consultancy or other service provided by the Seller.
- 1.6 "Conditions" means these terms and conditions that will govern the supply of the Products or Services and any special terms and conditions agreed in writing by the Seller and Buyer.
- 1.7 "Contract" means the contract for the supply of the Products or Services concluded by the placing of an Order that is accepted by the Seller.
- 1.8 "Default" means any act, representation or omission by the Seller, its officers, employees or agents, or that is done, made or not done (as the case may be) as a result of any act, representation or omission of any of them (whether deliberate or negligent) in connection with or in relation to this agreement as a result of which the Seller is legally liable to the Buyer or any third party whether in contract, tort or otherwise. A number of Defaults that together result in or contribute to substantially the same loss or damage shall be treated as one Default according to the date of the occurrence of the last such Default.
- 1.9 "Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill, the right to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of confidential information (including know-how) and all other intellectual property rights in each case whether registered or unregistered and including all applications and rights to apply for and be granted renewals or extensions of and rights to claim priority from such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

2. Personal Details and Data Protection

- 2.1 The personal details of the Buyer including name, address, telephone numbers, e-mail addresses and any banking transaction details and those of their representatives (Personal Data) are held by the Seller for account and order administration, marketing, to facilitate better communications and for security purposes.
- 2.2 It is the responsibility of the Buyer to ensure that its Personal Data are accurate and up to date and to inform the Seller of any changes that need to be made.

3. Scope of Contract

- 3.1 Neither the Buyer nor the Seller will be bound by any variation or waiver of the Conditions or of the quantity, design, specification or arrangements for delivery for any Products specified in any Contract unless and until agreed by both parties in writing.
- 3.2 Any terms and conditions used by the Buyer in the course of its business or contained in the Buyer's Order that are at variance with the Conditions will not apply to any Contract unless agreed by both parties in writing.
- 3.3 Acceptance of delivery of the Products or commencement of the Services shall be deemed to be conclusive evidence of the Buyer's acceptance of the Conditions.
- 3.4 Unless otherwise stated all quotes given by the Seller are based on price lists in force on the requested delivery date and will expire 30 days after the date on which they are given.
- 3.5 Orders may not be transferred by the Buyer.
- 3.6 The Seller sells Products and provides the Services as principal only to the intent and with the effect that no other person or persons shall have any rights or obligations or be entitled or liable to sue or be sued under the Contracts it enters into.

4. Delivery

- 4.1 Delivery of the Products will be arranged by the Seller on or as close as possible to the Buyer's requested delivery date subject to the Seller's existing priorities and schedules. If requested the Buyer will be advised of the Seller's estimated time or date for delivery which is an estimate only and may be cancelled or revised at the Seller's option. Time for delivery by the Seller will not be of the essence of the Contract. The Products comprising any Order may be delivered and invoiced in instalments at the Seller's discretion.
- 4.2 Deliveries of Products will be made to the address given on the Order. Any additional costs caused by a change of delivery address will be borne by the Buyer.
- 4.3 The Seller will have no liability to the Buyer in the event of non-delivery of the whole or any portion of the Products or failure to supply all or part of the Services caused directly or indirectly by any cause beyond the Seller's control.
- 4.4 Unless the Buyer informs the Seller of an incorrect delivery in writing within 30 days of the delivery, the delivery will be deemed to have been in accordance with the Order.
- 4.5 The Services will be provided in accordance with the Seller's quotation.

5. Payment and Price

- 5.1 Unless agreed otherwise the prices quoted in the Seller's quotation for Products excludes the cost of delivery (which will be invoiced to the Buyer) and any value added or other tax, duty or charge that may be imposed upon the production, storage, sale, transportation, import or export of the Products. Any such tax, duty or charge shall be for the account of the Buyer. The price quoted will remain applicable until delivery of the Products provided that this is within six months of the date of the Order.
- 5.2 The price stated in the Seller's quotation for the Services excludes value added or other tax that may be imposed on the Services.
- 5.3 Unless agreed otherwise payment of the price of the Products or Services comprising any Order will be made in pounds sterling.
- 5.4 Subject to clause 5.5 payment must be received by the Seller before Products are delivered or Services provided.
- 5.5 Subject to the Seller's written approval of the Buyer's application for credit terms in respect of any Order the Buyer may receive Products or Services up to the agreed credit limit.
- 5.6 Unless agreed otherwise terms are strictly 30 days net (payment to be received by the Seller 30 days after the date of delivery).
- 5.7 The Seller is entitled to interest on any unpaid invoices from the due date until payment at 3% above Bank of England base rate per month or part of a month.
- 5.8 Unless agreed otherwise no discounts will be granted for early payment.
- 5.9 If the Buyer does not comply with the payment terms the Seller may at its discretion suspend or cancel deliveries of Products and the supply of Services.

6. Risk, Cancellation and Termination

- 6.1 The risk in the Products will pass to the Buyer upon delivery to the carrier.
- 6.2 Unless agreed otherwise the Seller will not accept return of any unwanted Product from the Buyer.
- 6.3 The Seller will only accept cancellation of all or part of an Order if a request is received in writing from the Buyer and this is agreed by the Seller. For bespoke Products or Services the Buyer shall remain liable for the costs already incurred by the Seller which the Seller will use reasonable endeavours to minimise.

7. Title

- 7.1 Subject to clause 7.3 no title to the Products shall pass to the Buyer until all monies due from the Buyer to the Seller on any account have been received by the Seller

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- 7.2 Until title to the Products has been passed to the Buyer the Buyer will store the Products on its premises separately from its own goods or those of any other person in such a way that they can be easily identified as the property of the Seller. The Seller will be entitled to enter the Buyer's premises upon reasonable notice to verify the Buyer's compliance with this clause.
- 7.3 The Seller retains title to all software and documentation included in the Products, all media on which such software is delivered to the Buyer and to all material supplied or used as part of the Services.
- 7.4 All software included in the Products is licensed to the Buyer on the terms of the appropriate licence.
- 7.5 If the Buyer fails to make any payment to the Seller when it is due the Seller shall be entitled to enter without prior notice any premises of the Buyer where Products are stored or are reasonably thought to be stored and to repossess and dispose of any Products title of which has not passed to the Buyer so as to discharge any sums owed to it by the Buyer under any Contract.

8. Intellectual Property Rights

- 8.1 All Intellectual Property Rights in or arising out of connection with the Products or Services shall be owned by the Seller.
- 8.2 The Buyer acknowledges that in respect of any third party Intellectual Property Rights in the Products or Services the Buyer's use of any such Intellectual Property Rights is conditional on the Seller obtaining a written licence from the relevant licensor on such terms as will entitle the Seller to license such rights to the Buyer.
- 8.3 All Seller materials are the exclusive property of the Seller.

9. Warranties and Representations

WARNING: (1) The Products are sold for use in electrical system power monitoring, measurement, analysis, instrumentation and control applications. They are not intended for primary over-current protection, or applications where failure of the Product may result in loss of human life or personal injury, or have a financial impact; the Seller accepts no legal responsibility or liability in the event that the Buyer operates these Products for any purpose other than these stated recommended uses. (2) The operation of software can be impaired negatively by external causes, including but not limited to interruptions of electricity, failures of computer hardware, of operating systems or compilers, installation errors, hardware and software compatibility problems, improper usage and/or absence of adequate safety measures. The Seller accepts no responsibility for this and advises when applying its Products in electronic systems which when functioning inadequately can cause damage or death, to take safety measures by preparing a backup of all data files, or the inclusion of mechanisms which can switch off or interrupt the system.

- 9.1 Except as expressly provided in this clause all conditions, representations and warranties (express or implied statutory or otherwise) are excluded to the extent permitted by law including without limitation any implied warranties or conditions as to quality fitness for purpose or quality of Service.
- 9.2 Subject to the terms of this clause the Seller warrants to the Buyer that:
- 9.2.1 the Products are free of any defects in design, materials and workmanship that materially affect their performance for a limited period of time from the date of delivery as follows: two years for all Spring (Europe) Ltd products; one year for all CEM products;
- 9.2.2 the Services will be performed using reasonable care and skill;
- 9.2.3 all software will perform substantially in accordance with specification for a period of 90 days from the delivery date.
- 9.3 The Seller agrees to repair or replace (at the Seller's option) all Products which fail to conform to the relevant warranty set out in clause 9.2 provided that:
- 9.3.1 notification of the defect is received by the Seller within the warranty period specified above;

- 9.3.2 allegedly defective Products are returned to the Seller with the Seller's prior authorisation at the Buyer's cost within 30 days of the defect becoming apparent;
- 9.3.3 the Products have not been altered or subject to: misuse, incorrect installation or maintenance, neglect, accident, damage caused by excessive electrical current or used or incompatible parts, water damage or water ingress.
- 9.3.4 replacement Products shall have the benefit of the applicable warranty for the remainder of the applicable warranty period.
- 9.4 Allegedly defective Products returned to the Seller will if found by the Seller on examination not to be defective be returned to the Buyer at the Buyer's expense and a charge made for examination and testing.
- 9.5 The warranty in 9.2 shall not apply to any software if:
- 9.5.1 the software is not used in accordance with these Conditions or the instructions of the Seller or the manufacturer;
- 9.5.2 the software is altered, modified or converted by the Buyer or a third party;
- 9.5.3 a program error in the Product results from a malfunction of a third party's or the Buyer's equipment or software not supplied by the Seller.
- 9.6 The Seller does not warrant that any Products will operate in all selected combinations, that the operation of any such Products will be uninterrupted or error free or that operation of any such Products will meet the Buyer's requirements.
- 9.7 In no circumstances (except where limitation of liability is statutorily of no effect) will the Seller's liability exceed the cost of replacement Product or the price paid by the Buyer for the goods or include consequential loss, damage or expense however arising. In particular the Seller will not be liable for the following loss or damage however caused and even if foreseeable by the Seller:
- 9.7.1 economic loss, which term shall include loss of profits, business, revenue, goodwill or anticipated savings;
- 9.7.2 loss of or damage to the Buyer's or a third party's data;
- 9.7.3 special indirect or consequential loss;
- 9.7.4 loss arising from any claim made against the Buyer by a third party;
- 9.7.5 loss or damage arising from the Buyer's failure to fulfil its responsibilities or any matter under the control of the Buyer or a third party;
- 9.7.6 loss or damage arising from the Seller acting in accordance with the instructions of the Buyer, its officers, employees, agents or third parties engaged by the Buyer;
- 9.7.7 loss or damage arising directly or indirectly from any delay in delivery.
- 9.8 Except in respect of payments due under this agreement no action may be brought by either party against the other more than one year after the cause of the action has occurred.
- 9.9 Each of the limitations and exclusions set out above is to be construed as a separate limitation or exclusion applying and surviving even if for any reason one or other of the limitations is held inapplicable or unreasonable in any circumstances and shall remain in force despite termination of this agreement.

10. General

- 10.1 The Seller will not be prejudiced by any indulgence or forbearance extended to the Buyer and no waiver of any breach will operate as a waiver of any subsequent breach.
- 10.2 The Buyer will not assign its rights under the Conditions without the prior written consent of the Seller.
- 10.3 Any notice given under the Conditions will be duly served on the Buyer if it is left at or sent by first class post to its address last known to the Seller or on the Seller if it is left at or sent by first class post to its address as known to the Buyer. It will be assumed that any notice sent by post will be delivered on the seventh working day after posting.
- 10.4 This Contract will be construed in accordance with the laws of England and Wales and the Seller and the Buyer submit to the non-exclusive jurisdiction of the English and Welsh courts.