

# TERMS & CONDITIONS OF SALE

## GENERAL

All orders for products will be accepted by Pembroke Holdings Pty Ltd Trading as Ocean Controls ABN 22 061 932 027 subject to these terms and conditions. Any person, entity or corporation placing orders for goods/products with Ocean Controls is bound by these terms and conditions. No other terms or conditions will apply to the supply of products by Ocean Controls unless they are accepted in writing by Ocean Controls.

## PRICES

Whilst Ocean Controls will try to maintain prices specified in the website and catalogue, Ocean Controls reserves the right to change the price of any product without notice. Items will be sold at the prices set out in the relevant quotations supplied by Ocean Controls. Any prices quoted in writing by Ocean Controls will be for a period of 30 days from the date on the quotation. All prices specified by Ocean Controls in the website and catalog exclude goods and services tax (GST) and the customer must pay any applicable GST in addition to the prices specified. Goods exported by Ocean Controls are exempt from GST.

## PAYMENT

All invoices are net and are due and payable 30 days from the end of the invoice month unless otherwise provided. If the Customer fails to make payment by the due date then, Ocean Controls will be entitled to cancel any unfilled order or suspend any further deliveries until the account is in order, withdraw credit facilities or adjust the Customer's credit limit and interest at the rate of 10% per annum payable daily will be charged to all outstanding invoices not paid within terms. If legal action is taken to recover monies due to Ocean Controls then Ocean Controls reserves the right to charge the Customer all fees incurred in such proceedings.. For non account customers payment by cash, credit card, subject to authorisation, or direct deposit is required with order prior to delivery. Any subsequent refund of orders paid for by credit card will be made to the relevant credit card account. Cheques and postal orders must be made out Ocean Controls and crossed.

## PRODUCT AVAILABILITY

Ocean Controls is constantly reviewing its product range and it reserves the right to discontinue any product or to change its design at any time. Ocean Controls will not be liable in any circumstances for a failure to supply any product ordered by the Customer. Specification and particulars in relation to products referred to in Ocean Controls' website are subject to change without prior notice. Some photographs contain samples units and shipment product may vary in colour and look. Ocean Controls will not be held liable for any errors or omissions.

## ORDERS

Ocean Controls reserves the right to decline to trade with any company or person. To avoid duplication, written confirmation of telephone orders must be clearly marked "Confirmation only". Ocean Controls will not accept liability for orders not so marked and duplicate orders will be charged accordingly. Ocean Controls will use reasonable endeavours to meet delivery estimates but in no circumstances shall it be liable to compensate the Customer for non-delivery or late delivery.

Orders can only be modified, suspended or cancelled after prior negotiation and agreement and the Customer must indemnify Ocean Controls in respect of any expenses incurred by Ocean Controls relating to the modification or cancellation of any order. A restocking fee of 15% may apply.

Products not shown in our Website and Catalog are not stocked by Ocean Controls and may have minimum order quantities or minimum line values applied to orders. Such items are intent items and require an irrevocable order.

Products not in stock at the time of receipt of the order by Ocean Controls, will automatically be placed on backorder, unless otherwise requested.

Customers are responsible at their expense for obtaining any licence and complying with any export regulations in force within this country and the country for which products are destined. All taxes and clearance charges imposed by customs or government officials of that country will be paid by the customer.

## SHIPPING

Ocean Controls reserves the right to charge the freight cost to the Customer unless other arrangements have been pre-arranged. Ocean Controls uses its preferred carriers unless specifically requested by the Customer.

All freight costs for specific carriers nominated by the customer cannot be prepaid; they must be "Freight Collect". For "Freight Collect", insurance responsibility for the products passes to the Customer once product has been passed to their carrier. Where Ocean Controls are unable to supply a complete order from stock, this charge will only apply to the original dispatch. All subsequent shipments to complete the order will be sent freight free.

## DEFECTS AND NON-DELIVERY

The Customer must inspect the products on receipt of goods. Ocean Controls shall not be liable for any defect in the products or shortages in delivery unless written notice is given to Ocean Controls within 7 days of delivery. In the case of non-delivery, the Customer must notify Ocean Controls immediately the invoice is received, otherwise no liability can be accepted. Any liability of Ocean Controls for non-delivery or defective products shall be limited to, at Ocean Controls' discretion, replacing or repairing the products within a reasonable time or to refund any monies already paid in respect to the products. The Customer accepts liability for all freight costs incurred in the return of products to our office. This includes warranty repair or replacement of faulty goods without exception.

## RETURNS

The Customer must contact Ocean Controls prior to returning any products. A Return Authorisation will be issued in approved cases and details including the original invoice number and date of purchase must be supplied by the Customer. Any product returned must be received by Ocean Controls within 14 days of the original delivery and must be undamaged and unaltered and in original packaging. Certain products (including software, books, and batteries) are excluded from the right of return and may not be returned under any circumstances. Products classified as static sensitive devices will only be accepted for return in exceptional circumstances and only where the Customer can prove to Ocean Controls that the products have been handled correctly. The Customer accepts liability for all freight costs incurred in the return of products including warranty repair or replacement of faulty goods without exception and a restocking fee of 15% may apply.

## RETENTION OF TITLE

Title of goods shall only pass to the buyer following full payment of the relevant Ocean Controls invoice. Ocean Controls reserves the right to reclaim these goods from the Customer's premises if the invoice is not paid within the terms of this contract and the Customer hereby gives consent for the authorised agent or representative of Ocean Controls to enter the Customer's premises for this purpose. The Customer shall not have any power to mortgage, charge or encumber the goods whilst in its possession or otherwise until payment in full has been made.

## WARRANTY

Ocean Controls will endeavour to transfer to the Customer the benefits of any warranty or guarantee given to it by the manufacturer of the products. Any defects which under proper use, appear in the goods within a period of three months (unless otherwise stated by Ocean Controls) and which are due to faulty materials, workmanship or design will be made good by Ocean Controls either by repair or at Ocean Controls' discretion replacement (which is Ocean Controls' sole obligation and the Customer's sole remedy under this provision). Ocean Controls shall not be liable for defective goods if the defect arises because the Customer has:

1. Repaired or altered the goods without written consent of Ocean Controls' authorised officers or
  2. Subjected the goods to conditions outside the manufacturer's stated instructions on storage, usage, installation, use or maintenance.
- Any goods replaced or repaired under this clause will be guaranteed on these terms for any unexpired portion of the warranty period given on the original products.

## LIABILITY

Ocean Controls shall not be liable to the Customer for any indirect or consequential damages, loss, expense or claims for consequential compensation whatsoever which arises out of or in connection with any Contract. To the fullest extent permitted by law, the Customer releases Ocean Controls and associated entities from and against all liability whatsoever for any injury, loss or damage sustained by the buyer howsoever arising.

## INTELLECTUAL PROPERTY RIGHTS

Any claim from the sale which may allege infringement of trade marks, trade names, patents, copy or property rights of other parties, shall be directed immediately by the buyer to Ocean Controls and the buyer will give every assistance to Ocean Controls in connection with such claim. The buyer will not itself, deal with, or compromise any claim which may occur.

## FORCE MAJEURE

Ocean Controls will not be in breach of its contract with the customer for any delays in performing, or failure to perform, its obligations under these terms and conditions if delays or failure were due to any cause or circumstance beyond Ocean Controls' reasonable control (which shall include, but not be limited to, government actions, war, fire, explosion, flood, acts of terrorism, import or export regulations or embargoes, labour disputes or the inability to obtain or a delay in obtaining supplies of products). Ocean Controls may, as its option delay the performance of, or cancel the whole or any part of a Contract.

## JURISDICTION

This agreement shall be governed by the law of Victoria. The parties to submit all disputes to the exclusive jurisdiction of the courts of Victoria, Australia.