

# Terms and Conditions

## GENERAL

The following terms and conditions shall constitute the entire Agreement for the purchase and sale of Whitman Controls Corporation's products. Any acceptance contained herein is made expressly conditional upon the Purchaser's assent to the terms which are different from, in addition to, or vary the terms contained in the Purchaser's purchase order or request for quotations. Such assent shall be deemed to occur upon the failure of the Purchaser to object in writing specifically to such term or terms within 14 days from the receipt hereof. Any terms and conditions contained in the Purchaser's purchase order or request for quotation which are different from, in addition to, or vary Whitman Controls Corporation's terms and conditions shall not be binding upon Whitman Controls Corporation, and Whitman Controls Corporation hereby objects thereto.

## CHANGES

Prior to the date of delivery of any product or products hereunder, the Purchaser shall have the right to make changes in its order provided that Whitman Controls Corporation receives written notice of the desired changes and accepts the same, and provided further that the Purchaser accepts the additional charge therefor as determined by Whitman Controls Corporation. Changes which interfere with or alter Whitman Controls Corporation's production schedules will not be acceptable unless the time for performance is extended for such period as deemed necessary by Whitman Controls Corporation. Failure of Whitman Controls Corporation to accept a Purchaser's request to change its purchase order shall not be cause for Purchaser's cancellation of its order except upon payment of a cancellation charge to be determined by Whitman Controls Corporation.

## CANCELLATION

(a) Whitman Controls Corporation shall have the absolute right to cancel this Agreement upon breach thereof by the Purchaser, failure by the Purchaser to make any payment required by this Agreement, or the insolvency or bankruptcy of the Purchaser.

(b) A purchase order or any part thereof which is hereby accepted by Whitman Controls Corporation may not be cancelled unless and until Whitman Controls Corporation receives written notice of the cancellation, has determined the additional charge to be made, and the same has been accepted and paid by the Purchaser. Upon receipt of a notice of cancellation, Whitman Controls Corporation shall be entitled to take whatever action it deems necessary and advisable to minimize cancellation charges.

## WARRANTY

(a) Whitman Controls Corporation warrants, to the original purchase, except as hereinafter provided, each product sold hereunder which is assembled by it to be free from defects in assembly under normal use and service for the following period:

1. Pressure, Vacuum, Liquid Level and Delta P Switch Products - For a period of 3 years after shipment thereof or one (1) million cycles, whichever ever occurs first.

(b) Whitman Controls Corporation warranty extends only to products assembled by it and is, to the extent permitted by law, in lieu of all other warranties, express or implied, including warranties of merchantability and fitness for a particular purpose and any prior written or oral representations regarding such products made by Whitman Controls Corporation, its employees, agents, or representatives.

(c) products, or components thereof, supplied by any other party to Whitman Controls Corporation which are not assembled by Whitman Controls Corporation are covered only by the individual warranty of such party and copies of such warranties will be furnished upon request.

(d) Whitman Controls Corporation reserves the right to inspect products claimed defective under warranty either at the Purchaser's location or at Bristol, Connecticut. A defective product is not to be returned to Whitman Controls Corporation's plant unless authorized by Whitman Controls Corporation. Products so returned shall be returned to Whitman Controls Corporation's plant, freight prepaid. Any product proving defective due to faulty assembly within the warranty period will be replaced or repaired free of charge F.O.B. Whitman Controls Corporation's plant, Bristol, Connecticut. Whitman Controls Corporation assumes no liability for labor charges incidental to the adjustment service, repairing, removal or replacement of the product or other costs, or for the expense of repairs made outside of its factory except when made pursuant to Whitman Controls Corporation's prior written consent. Whitman Controls Corporation, at its option, may ship a replacement or replacements immediately under standard billing and make warranty adjustment after inspection of the defective product by means of credit memorandum.

## DELAYS

Whitman Controls Corporation shall not be liable for damages for delays in performance due to circumstances beyond its reasonable control, including without limiting the generality of the foregoing, any priority system established by any agency of the United States Government, fires, floods, storms, and other acts of God, accidents, strikes, insurrections, war, shortage of materials, lack of transportation, and failure of performance of subcontractors and/or suppliers for similar reasons. Failure of Whitman Controls Corporation to perform for these reasons aforesaid shall not be grounds for Purchaser's cancellation of its order but the delivery date shall be extended accordingly.

## LIMITATION OF LIABILITY

No claim made hereunder by the Purchaser, whether as to goods delivered or for non-delivery shall be greater than the purchase price of the goods in respect of which such claim is made, and Whitman Controls Corporation shall under no circumstances be liable for consequential damages.

## LIMITATION OF APPLICATION LIABILITY

Whitman Controls Corporation assumes the buyer to be expert in his intended application of Whitman Control products. Whitman Controls claims no special expertise in the application of its products in the buyer's equipment. Whitman Controls accepts no responsibility for the buyer's selection and use of Whitman Control Products. Buyer's interpretation and implementation of application suggestions and recommendation by Whitman Controls, general or specific, transmitted verbally or in writing, published or unpublished, is strictly at the buyer's own risk.

## MISCELLANEOUS

(a) This Agreement may not be assigned or otherwise transferred by Purchaser without the prior written consent of Whitman Controls Corporation, and any such assignment or transfer without such prior written consent shall be null and void and of no force or effect whatsoever.

(b) Whitman Controls Corporation's failure to insist, in one or more instances, upon the performance of any term or terms of this Agreement shall not be construed as a waiver or relinquishment of its right to such performance or the future performance of such term or terms and Purchaser's obligation with respect thereto shall continue in full force and effect.

(c) Any notice or other communication required or permitted hereunder shall be sufficiently given if sent in writing by registered or certified mail, postage prepaid, to the other party thereto at its respective address first above written. Any such notice, if so mailed, shall be deemed to have been received on the third business day following such mailing. Either party hereto may change its address for notice purposes by written notice to the other party.

(d) The paragraph headings in this Agreement are used for convenience only. They form no part of this Agreement and are in no way intended to alter or affect the meaning of this Agreement.

(e) This Agreement may be amended at any time by mutual agreement of the parties hereto by an endorsement to this Agreement signed by each of them.

(f) The invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity or enforceability of any other of its provisions.

(g) This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut.

(h) We hereby certify that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

(i) All reasonable legal and collection costs will be charged to customer if referred for collection.

## TAXES

All applicable federal, state, or local sales, use, or excise taxes are the responsibility of the Purchaser and shall be in addition to the price or prices stated on the front side of this document unless otherwise specifically stated. Whitman Controls Corporation shall have the right to invoice separately any such tax as may be imposed at a later time. Applicable tax exemption certificates must accompany any order to which the same applies.

## PAYMENT TERMS

(a) NET 30 DAYS. If payment has not been received within 60 days of invoice date, future orders may be shipped C.O.D.

(b) F.O.B.—Shipping Point unless otherwise stated.

