

Quantum Controls Ltd

Conditions of Sale/Supply of Goods and Services
("Conditions")

1. Definitions and interpretation

In these **Conditions**:

- 1.1 "**Consents**" means any and all permissions, consents, conditions, restrictions, approvals, notices, and licences of the local authority or any third party necessary for and relevant to the performance and completion of the **Services**;
- 1.2 "**Contract**" means the contract for the purchase and sale of the **Goods** and **Services**, subject to these **Conditions**;
- 1.3 "**Contract Price**" means the price the **Customer** shall pay **QUANTUM CONTROLS LTD** for the **Goods** and **Services** (which is exclusive of VAT) and as set out in the **Specification** (and as supplemented and/or varied in accordance with these **Conditions**);
- 1.4 "**Customer**" means the person entering into the **Contract** with **QUANTUM CONTROLS LTD**;
- 1.5 "**Goods**" means the **Goods** (including but not limited to any instalments or parts) which **QUANTUM CONTROLS LTD** is to supply in accordance with these **Conditions**;
- 1.6 "**Services**" means the **Services** (including but not limited to any repair work or instalments) which **QUANTUM CONTROLS LTD** is to perform;
- 1.7 "**QUANTUM CONTROLS LTD**" means Quantum Controls Ltd (CRN: 4118204) whose registered office is at 6A Dukes Way, Prudhoe. NE42 6PQ;
- 1.8 "**Site**" means the location where the **Services** are to be performed as set out in the **Specification**;
- 1.9 "**Site Standards**" means the [*required standards, access requirements and facilities to be made available at the Site for use by QUANTUM CONTROLS LTD and which are set out in the Specification*];
- 1.10 "**Specification**" means a document or documents identifying the price, invoicing arrangements, quantity, quality and description of and any specification for the **Goods** (and the **Services**, if any) to be supplied by **QUANTUM CONTROLS LTD** to the **Customer**; and
- 1.11 "**Working Hours**" means 8.00am to 4.30pm, excluding Saturdays, Sundays, and Bank Holidays.

2. General

- 2.1 A quotation by **QUANTUM CONTROLS LTD** is not an offer. Quotations are valid for 30 days only and subject to withdrawal or revision at any time before acceptance of the **Customer's** order by **QUANTUM CONTROLS LTD**. Each order for **Goods** and/or **Services** by the **Customer** is an offer by the **Customer** to purchase the **Goods** and/or **Services** subject to these **Conditions**. The **Contract** shall be made on acceptance by **QUANTUM CONTROLS LTD** (on **QUANTUM CONTROLS LTD's** acknowledgement of order form) of a written order placed by the **Customer** (or when **QUANTUM CONTROLS LTD** supplies the **Goods** and/or **Services** to the **Customer**, if earlier) and shall be subject to these **Conditions**.
- 2.2 The **Customer** must ensure that the terms of any order (including any specification prepared by the **Customer**) are complete and accurate and that the **Customer** gives to **QUANTUM CONTROLS LTD** any necessary information relating to the **Goods** and **Services** within a sufficient time to enable **QUANTUM CONTROLS LTD** duly to perform its obligations in connection with the **Contract**.
- 2.3 These **Conditions** may only be varied in writing, signed by an authorised person of **QUANTUM CONTROLS LTD**. No other conditions or terms whatever whether oral or written regardless of the date or dates upon which they were sent or exhibited by the **Customer** shall affect or vary these **Conditions** and/or the terms upon which the **Contract** is made.
- 2.4 Any advice or recommendation given by **QUANTUM CONTROLS LTD** or its employees or agents to the **Customer** as to the storage, application or use of the **Goods** which is not confirmed in writing by **QUANTUM CONTROLS LTD** is followed or acted upon entirely at the **Customer's** own risk and the **Customer** acknowledges that it does not rely on, and waives any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).
- 2.5 In the event of any conflict or discrepancy between the **Specification** and these **Conditions**, then the terms in the **Specification** will prevail.

3. Limits of the Specification

- 3.1 The **Contract** shall include only such **Goods** and **Services** as described in the **Specification** or the **Customer's** order (if subsequently accepted in writing by **QUANTUM CONTROLS LTD**). Unless specifically agreed in writing, all drawings dimensions and weights submitted by **QUANTUM CONTROLS LTD** shall be taken to be approximate and shall not form part of the **Specification**.
- 3.2 All drawings, plans, specifications, method statements and related documents submitted by **QUANTUM CONTROLS LTD** in connection with the **Contract** remain the property of **QUANTUM CONTROLS LTD** with all rights reserved. In the event the **Contract** is not concluded or alternatively, following completion of the **Services**, all drawings, plans, specifications and method statements and related documents are to be returned to **QUANTUM CONTROLS LTD** without delay. The **Customer** is not permitted to make copies of such documents without having first obtained the consent of **QUANTUM CONTROLS LTD** in writing.
- 3.3 **QUANTUM CONTROLS LTD** reserves the right to make any changes in the **Specification** which are required for the **Goods** or **Services** to conform with any applicable statutory or regulatory or safety requirements or any other changes which **QUANTUM CONTROLS LTD** may reasonably require, provided such changes do not substantially affect the quality or performance of the **Goods**.
- 3.4 If the **Goods** are to be supplied and/or the **Services** to be performed by **QUANTUM CONTROLS LTD** in accordance with any documents or information provided by the **Customer**, the **Customer** shall indemnify **QUANTUM CONTROLS LTD** against all loss, damages, costs and expenses awarded against or incurred by **QUANTUM CONTROLS LTD** in connection with or paid or agreed to be paid by **QUANTUM CONTROLS LTD** in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from **QUANTUM CONTROLS LTD's** use of the **Customer's** specification.

- 3.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by **QUANTUM CONTROLS LTD** shall be subject to correction without any liability on the part of **QUANTUM CONTROLS LTD**.

4. Limits of Contract Price

- 4.1 Unless otherwise expressly agreed in writing, the **Contract Price** has been calculated on condition that the **Services** are capable of being performed to an agreed programme with uninterrupted access to the **Site** during the **Working Hours** and that the **Site** conforms to the required **Site Standards**. In the event the **Customer** requires performance of the **Services** outside **Working Hours** or the **Site** does not conform to the **Site Standards**, any additional costs or expenses incurred by **QUANTUM CONTROLS LTD** (including but not restricted to the supply of any necessary services, waiting and travelling time) shall be paid by the **Customer** to **QUANTUM CONTROLS LTD** within 28 days of the date of **QUANTUM CONTROLS LTD's** invoice or demand for payment.

- 4.2 All items ordered in addition to those identified in the **Specification** will be charged for in addition to the **Contract Price** as will the costs of all tests, alterations, additions and all other work undertaken at the request of the **Customer** but not identified in the **Specification**. Those additional costs will be calculated by **QUANTUM CONTROLS LTD** having regard to the rates and prices set out in its quotation or in the **Specification** or as otherwise agreed with the **Customer** and will be paid for by the **Customer** within 28 days from the date of **QUANTUM CONTROLS LTD's** invoice or demand for payment.

5. Customer's obligations

The **Customer** shall provide all sufficient and accurate information requested by **QUANTUM CONTROLS LTD** in a timely fashion to enable the proper performance of the **Services** by **QUANTUM CONTROLS LTD** so as not to delay or disrupt **QUANTUM CONTROLS LTD** in performing its obligations under the **Contract**. **QUANTUM CONTROLS LTD** shall be entitled to rely on the accuracy and sufficiency of all information provided to it by the **Customer**, and to make assumptions on the basis of such information, when supplying the **Goods** and supply of **Services**.

The **Customer** is responsible for ensuring that the **Site** complies with the **Site Standards** at the time of delivery of the **Goods** and performance of the supply of **Services**.

Except where otherwise stated in the **Specification**, the **Customer** must obtain at its own cost all **Consents** required to enable **QUANTUM CONTROLS LTD** to carry out and complete the **Services** and the **Customer** must comply with any conditions contained in the **Consents** relating to the **Goods** and the supply of **Services** or the **Site**.

The **Customer** agrees to have due regard to all information supplied by **QUANTUM CONTROLS LTD** relating to the use of the **Goods** necessary to ensure the **Goods** will be safe and do not pose a risk to the health and/or safety of any person at all times when the **Goods** are being set, used, cleaned or maintained by any person.

Except where otherwise stated in the **Specification** or agreed in writing, the **Customer** shall provide **QUANTUM CONTROLS LTD** at the **Customer's** own cost and expense with a suitable water and power supply, toilet and washing facilities and storage space on **Site** at such times and in such a manner as **QUANTUM CONTROLS LTD** will from time to time require in order that **QUANTUM CONTROLS LTD** may perform its obligations and duties under the **Contract**.

The **Customer** agrees to indemnify **QUANTUM CONTROLS LTD** in respect of any and all claims, losses, costs, and expenses suffered or incurred by **QUANTUM CONTROLS LTD**:

- arising from the **Goods** being unsafe caused by any act, omission or default of the **Customer**; and
- arising from a breach by the **Customer** of any of its obligations under this condition 5.

6. Delivery

- 6.1 Except where otherwise stated in the **Specification** or agreed in writing, the **Goods** shall be deemed delivered on issue of a notice in writing to the **Customer** indicating that the **Goods** are ready for collection from the location specified in the notice.

- 6.2 Where the **Goods** are to be delivered or **Services** are to be performed in instalments, each delivery or performance shall be a separate **contract** and failure by **QUANTUM CONTROLS LTD** to deliver or perform any one or more of the instalments in accordance with these **Conditions** or any claim by the **Customer** in respect of any one or more instalment shall not entitle the **Customer** to treat the **Contract** as a whole as repudiated.

- 6.3 If the **Customer** fails to take delivery of the **Goods** or **QUANTUM CONTROLS LTD** is unable to deliver the **Goods** on time because the **Customer** has not provided adequate instructions, documents, licences or authorisations, then the **Goods** are deemed delivered and **QUANTUM CONTROLS LTD** may:-

- 6.2.1 store the **Goods** until actual delivery and charge the **Customer** for the reasonable costs (including insurance) of storage; or
- 6.2.2 Sell the **Goods** at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the **Customer** for the excess over the price under the **Contract** or charge the **Customer** for any shortfall below the price under the **Contract**.

7. Transport and packing

- 7.1 **Goods** sold "ex works" shall be despatched according to the **Customer's** instructions.

- 7.2 **Goods** sold "delivered" shall be despatched by any means of transport at **QUANTUM CONTROLS LTD's** option unless otherwise agreed in writing. All unloading and demurrage charges which may be incurred will be charged to the **Customer**. It is a condition that where **QUANTUM CONTROLS LTD** Sells **Goods** "delivered" that adequate facilities exist for so doing by road and for unloading.

- 7.3 Any packing or protection shall be at the discretion of **QUANTUM CONTROLS LTD**.

- 7.4 All packing or protection shall be charged to the **Customer** in addition to the **Contract Price** unless it is specifically included in the **Contract Price**.

8. Time for Delivery and Installation

- 8.1 Delivery times of the **Goods** and performance of the **Services** where given will date from the confirmation by **QUANTUM CONTROLS LTD** of the **Customer's** order.

- 8.2 Time for delivery of the **Goods** and/or performance of the **Services** are approximate only and shall not be of the essence of the **Contract**.
- 8.3 If the **Customer** extends or delays the performance of the **Services** or fails to take delivery of any **Goods** at the agreed time or (if no time is agreed) within a reasonable time then the **Customer** shall indemnify **QUANTUM CONTROLS LTD** against all loss (including loss of profit), costs (including the cost of storage and all labour and materials used), damages, charges or expense suffered or incurred by **QUANTUM CONTROLS LTD** as a result of such extension, delay or failure.
- 8.4 **QUANTUM CONTROLS LTD** reserves the right to defer the date of delivery of the **Goods** or performance of the **Services**, to cancel or terminate the **Contract** or reduce the volume of **Goods** ordered without liability to the **Customer** if **QUANTUM CONTROLS LTD** is prevented from or delayed in carrying on its business by any cause beyond **QUANTUM CONTROLS LTD's** reasonable control (which includes difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery) or caused by any act, omission or default of the **Customer**.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION 9

9. Exclusions and Limitation of Liability

- 9.1 Nothing in these **Conditions** excludes or limits **QUANTUM CONTROLS LTD's** liability for death or personal injury caused by **QUANTUM CONTROLS LTD's** negligence or for fraudulent misrepresentation and all provisions in the **Contract** shall be construed subject to this condition.
- 9.2 **QUANTUM CONTROLS LTD** shall not be liable to the **Customer** by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the **Contract**, for any indirect special or consequential loss or damage (whether for loss of profit, loss of production, loss of use, loss or revenue, loss of contract, goodwill or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of **QUANTUM CONTROLS LTD**, its employees or agents or otherwise) which arise out of or in connection with the supply of the **Goods** and/or **Services** or the use of the **Goods** or resale by the **Customer** or the contemplated performance or lack of performance of **QUANTUM CONTROLS LTD's** obligations under this **Contract**.
- 9.3 **QUANTUM CONTROLS LTD's** entire aggregate maximum liability in contract, tort, negligence, breach of statutory duty, misrepresentation or otherwise arising in connection with the performance or contemplated performance or lack of performance of its obligation in connection with the **Contract** shall be limited to:
- 9.3.1 the amount recoverable from **QUANTUM CONTROLS LTD's** insurers in respect of claims the subject matter of which are both insurable and insured by **QUANTUM CONTROLS LTD**; or
- 9.3.2 the **Contract Price** in respect of claims the subject matter of which are not insured by **QUANTUM CONTROLS LTD**.
- 9.4 **QUANTUM CONTROLS LTD** shall have no liability for defects due to a design or specification made, finished or specified by the **Customer**.
- 9.5 **QUANTUM CONTROLS LTD** will not be liable to the **Customer** or be in breach of **Contract** by reason of delay or failure to perform any of **QUANTUM CONTROLS LTD's** obligations if the delay or failure was due to any cause beyond **QUANTUM CONTROLS LTD's** reasonable control or caused by any act, omission or default of the **Customer** or any of its servants, agents or employees.
- 9.6 **QUANTUM CONTROLS LTD** will take all reasonable steps to avoid damage to the **Site** but no responsibility will be accepted by **QUANTUM CONTROLS LTD** in respect of damage to any property, fixtures or fittings in, on, under or around the **Site** caused by the employees or agents of **QUANTUM CONTROLS LTD** when delivering the **Goods** and/or performing the **Services**.

10. Warranty

- 10.1 **QUANTUM CONTROLS LTD** warrants to the **Customer** that the **Goods** correspond with the **Specification** at the time of delivery and will be free from defects in material and workmanship for a period ("the **Guarantee Period**") of 12 months from date of delivery to the **Customer** (save that the **Guarantee Period** shall be 24 months in the case of Transformers reconditioned or rebuilt by **QUANTUM CONTROLS LTD**, 18 months in the case of switchgear and 3 months in the case of Rectifiers and Capacitors).
- 10.2 **QUANTUM CONTROLS LTD** warrants that it will exercise reasonable skill and care to the normal standards to be expected from members of **QUANTUM CONTROLS LTD's** industry when performing the **Services**.
- 10.3 In the event of any defect in the **Goods** appearing within the **Guarantee Period** the **Customer** shall:
- 10.3.1 notify **QUANTUM CONTROLS LTD** in writing of any such defects within 7 days of their discovery; and
- 10.3.2 upon **QUANTUM CONTROLS LTD's** written request return the **Goods** or part of them to **QUANTUM CONTROLS LTD's** works carriage paid by the **Customer**.
- 10.4 In no event shall the **Customer** be entitled to reject the **Goods** on the basis of any defect or failure which is so slight that it would be unreasonable for the **Customer** to reject them.
- 10.5 If the **Customer** does not notify claims in accordance with condition 10.3, then:-
- 10.5.1 the **Customer** shall not be entitled to reject the **Goods** and/or **Services**; and
- 10.5.2 **QUANTUM CONTROLS LTD** shall have no liability for such defect or failure; and
- 10.5.3 the **Customer** shall be bound to pay the full price for the **Goods** and/or **Services**.
- 10.6 If any **Goods** are found not to correspond with the **Specification**, **QUANTUM CONTROLS LTD** may at its sole option, either:
- 10.6.1 at its own expense repair or replace the **Goods** found not to conform with the **Specification** or carry out the **Services** again; or
- 10.6.2 reduce the **Contract Price** by an amount equivalent to that proportion of the **Contract Price** payable in respect of the **Goods** found not to correspond with the **Specification**.
- 10.7 Except as expressly set out in these **Conditions**, all other warranties, stipulations and undertakings as to the quality and fitness for purpose of the **Goods** and/or the **Services** whether express or implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.8 The warranty given in this condition 10 shall not apply if:

- 10.8.1 the **Customer** makes, causes or allows to be made any alterations or repair to the **Goods** without the written consent of **QUANTUM CONTROLS LTD**, which shall not be unreasonably withheld; or
- 10.8.2 any defect arises in the **Goods** from any information, drawing or specification prepared or supplied by the **Customer**; or
- 10.8.3 any defect arises in the **Goods** from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow **QUANTUM CONTROLS LTD's** instructions or maintenance requirements, misuse or alteration or repair of the **Goods** without **QUANTUM CONTROLS LTD's** prior approval; or
- 10.8.4 the **Goods** have been improperly installed or connected (unless **QUANTUM CONTROLS LTD** carried out the installation and connection).
11. **Cancellation and Variation by the Customer**
Save as provided by condition 8.4, orders accepted by **QUANTUM CONTROLS LTD** cannot be varied or cancelled by the **Customer** without **QUANTUM CONTROLS LTD's** written consent. **QUANTUM CONTROLS LTD** reserves (as a condition of granting such consent) the right to make charges to cover the costs incurred by **QUANTUM CONTROLS LTD** at the date of cancellation or of variation requested by the **Customer**.
12. **Payment**
- 12.1 **QUANTUM CONTROLS LTD** shall be entitled to submit an invoice or invoices to the **Customer** for payment of the **Contract Price** as set out in the Specification (or as supplemented and/or varied in accordance with these **Conditions**) or within 14 days after the date of delivery, whichever is the earlier.
- 12.2 The **Customer** shall pay **QUANTUM CONTROLS LTD's** invoices in full and without any deduction, contra-charge, withholding or set-off within 28 days of the date of each invoice. **QUANTUM CONTROLS LTD** shall be entitled to recover the full amount of each invoice, notwithstanding that the **Goods** or any part of them have not been collected or delivered to or from the **Site** or that the **Services** have not been completed.
- 12.3 The time for each payment of the **Contract Price** is of the essence of the **Contract**. Receipts for payment will only be issued on written request.
- 12.4 Unless otherwise stated in the **Specification**, any price quoted by **QUANTUM CONTROLS LTD** for the **Goods** is exclusive of the cost of delivery to the **Customer** (and exclusive of all transport, packaging, insurance costs and any taxes, duties or surcharges).
- 12.5 All prices (including but not limited to the **Contract Price**) are exclusive of VAT. The **Customer** shall pay to **QUANTUM CONTROLS LTD** all VAT due and properly chargeable in respect of the **Goods** and the **Services**.
- 12.6 In the event the **Customer** fails to comply with **QUANTUM CONTROLS LTD's** terms of payment, **QUANTUM CONTROLS LTD** may (without prejudice to any legal rights of action **QUANTUM CONTROLS LTD** has or may have) without notice, suspend or discontinue at any time the provision to the **Customer** of any further **Goods** and/or **Services**. In any event, the **Customer** shall remain liable to pay for **Goods** or **Services** delivered or supplied prior to such cancellation by **QUANTUM CONTROLS LTD** or the **Customer**. The **Customer** shall indemnify **QUANTUM CONTROLS LTD** against any and all costs and expenses incurred by **QUANTUM CONTROLS LTD** arising out of or in connection with **QUANTUM CONTROLS LTD** taking action to recover any overdue payment.
13. **Ownership and Risk**
- 13.1 The ownership of the **Goods** shall not pass to the **Customer** until **QUANTUM CONTROLS LTD** has been paid all that is due to it under the **Contract**.
- 13.2 Until ownership in the **Goods** passes to the **Customer**, the **Customer** shall keep the **Goods** as bailee and trustee for **QUANTUM CONTROLS LTD** and **QUANTUM CONTROLS LTD** may recover or reSell the **Goods** and enter the **Site** or any other premises where the **Goods** are located for this purpose so as to discharge any overdue payment. The **Customer** shall be entitled to Sell the **Goods** to third parties in the normal course of its business on condition that the proceeds of such resale shall be held by the **Customer** as trustee for **QUANTUM CONTROLS LTD** and kept in a separate identifiable bank account and the **Customer** authorises **QUANTUM CONTROLS LTD** to make enquiries of its bankers (or otherwise as appropriate) relating to such proceeds.
- 13.3 Risk in the **Goods** shall pass to the **Customer** upon delivery to the premises of the **Customer** as described in the **Specification**.
14. **Lien**
- 14.1 **QUANTUM CONTROLS LTD** shall have a general lien (together with a power of sale) on all **Goods** and property owned by **QUANTUM CONTROLS LTD** in the **Customer's** possession until payment is made in full and in cleared funds of all amounts due to **QUANTUM CONTROLS LTD** under the **Contract** or any other contact between **QUANTUM CONTROLS LTD** and the **Customer** and shall be entitled on the expiration of 14 days' notice to dispose of such **Goods** as it thinks fit and apply any proceeds towards such debt.
- 14.2 No disputes as to quality or performances of the **Goods** or **Services** shall entitle the **Customer** to delay payment unless **QUANTUM CONTROLS LTD** shall agree liability thereon in an agreed sum or shall have been found liable in the English courts.
15. **Equipment offered which is not QUANTUM CONTROLS LTD's Own Property**
- 15.1 Any information supplied by **QUANTUM CONTROLS LTD** concerning the location and other matter in respect of equipment which is not **QUANTUM CONTROLS LTD's** own property is given on the understanding that the **Customer** will not make a direct approach to purchase the equipment through the owners but will purchase them through **QUANTUM CONTROLS LTD**.
- 15.2 The **Customer** agrees not to make any direct approach to the owner of such equipment and undertakes to reimburse **QUANTUM CONTROLS LTD** in respect of any loss of commission or other loss which **QUANTUM CONTROLS LTD** may suffer as a result.
16. **Group companies**
QUANTUM CONTROLS LTD is a member of a group of companies and accordingly **QUANTUM CONTROLS LTD** may perform any of its obligations or exercise any of its rights under this **Contract** by itself or through any other member of its group.

17. **Severance**

If any term or condition of the **Contract** is for any reason held to be illegal invalid ineffective inoperable or otherwise enforceable by law it shall be severed and deemed to be deleted from the **Contract** and the validity and enforceability of the remainder of the **Contract** shall not be affected or impaired in any way. If any provision of the **Contract** is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification as may be necessary to make it valid.

18. **Assignment**

The **Customer** shall not assign or transfer its rights under the **Contract** to any third party without the prior consent in writing of **QUANTUM CONTROLS LTD**. Nothing in the **Contract** shall confer any right pursuant to the Contracts (Rights of Third Parties) Act 1999 on any person who is not a party to it.

19. **English Law**

The **Contract** shall be governed and construed in accordance with English law and the parties submit to non-exclusive jurisdiction of the English courts.