

**SILICON ENGINEERING GENERAL CONDITIONS OF SALE**

1. **APPLICABLE CONDITIONS:** Any contract resulting from the acceptance of this Tender will be subject to the General Conditions contained herein. No amendments nor alterations can occur unless agreed to in writing.
2. **PARTIES:** *SILICON ENGINEERING (PTY) LTD.*, having its main offices at **1321 Spyker Crescent, Stormill Ext 2, Roodepoort, South Africa** are hereafter referred to as the Seller and the person to whom this quotation is addressed is referred to as the Buyer and the expression **BUYER** includes the Buyer's employees and agents.
3. **ALTERATION TO PRICE LIST:** Prices in this Tender will remain firm for a period of 30(thirty) days from the date of this Tender, save and except that the amount of any or all other Government charge or duty in the cost to the Seller of conforming with any other legal requirement (including any Act of Parliament and any Order or Regulation made by any Government or Department) proposed or coming into force after the date of this Tender, shall be added to the price paid by the Buyer as shall additions in price on any equipment due to any change in rates of exchange, which said additions in price shall be based on the gross quoted selling price and will be calculated directly proportionately to the change in rates of exchange from the rates existing at the date of quotation to those existing at date of Invoice. Prices are quoted **EXCLUDING VAT** unless explicitly stated to the contrary.
4. **DELIVERY:** The periods of delivery as specified in this Tender dates from the receipt of the Seller of a full, firm and final order entitling the Seller to proceed with an uninterrupted completion of the Contract. Should the Buyer be unable to receive the goods at the contractual delivery date due to any reason whatsoever then the date on which the goods could have been delivered will be deemed to be the delivery date for contractual and payment conditions. Prices are all ex Works uncrated unless explicitly stated to the contrary. Any delivery note, both its copy or original, signed by the Buyer or its duly authorised representative and held by the Seller, shall be deemed to be sufficient proof that delivery was made to the Buyer. The risk in and to the goods shall pass from Seller to the Buyer on delivery to the Buyer or the Buyer's agent.
5. **DELAY IN DELIVERY DUE TO FORCE MAJEURE:** The Seller shall not be liable for any delay or for any consequence of any delay in the production, delivery or commissioning of any equipment or plant if such delay shall be due to fire, strike, lock-out, dispute with workmen, flood, accident, delay in transport, shortage of fuel, default of any sub-contractor, inability to obtain material, embargo, act or demand or requirement of any Government department or local authority, or as a consequence of war or hostilities (whether war be declared or not) or to any other cause whatsoever beyond the Seller's reasonable control. If any such delay occurs then the Seller's period for performing its obligations shall be extended by such period (not limited to the length of the delay) as the Seller may reasonably require to complete the performance of its obligations.
6. **ACCEPTANCE OF TENDER:** Notification to the Seller by the Buyer of acceptance of this Tender whether in writing or verbal is final and binding. Any alterations or additions shall not bind the Seller unless agreed to in writing and any extra work in connection with alterations or additions are for the Buyer's account.
7. **TERMS:**
  - (a) The Buyer agrees and undertakes to pay the amount reflected on the invoice submitted by the Seller to the Buyer from time to time, at the offices of the Seller and make such payment payable to cash or order or if the Buyer is a credit approved Buyer, within the granted credit period as specified in the credit application. In cases where we choose to use the postal services to effect payment, such postal services shall be deemed to be our agent.
  - (b) The Buyer shall not be entitled to withhold payment for any reason whatsoever and further agrees that no extension of time for payment will be applicable or enforceable unless agreed to by the Seller and be reduced to writing and signed by the Buyer and a duly authorised representative of the Seller.
  - (c) Payment is to be made by the Buyer to the Seller within 30 (Thirty) days of the Seller having despatched an invoice to the Buyer in the case of credit approved Buyers.
  - (d) The ownership of the equipment supplied by the Seller shall remain vested in the Seller until the full purchase price thereof shall have been paid to the Seller;
  - (e) Notwithstanding the title to all equipment remains vested in the Seller until the full purchase price thereof shall have been paid, the Buyer accepts full responsibility for the safe custody of the equipment from the date of delivery of the equipment to the Buyer and the Buyer indemnifies the Seller against all loss which the Seller may suffer after despatch of the equipment howsoever arising. It is agreed that delivery means either delivery direct to the destination specified by the Buyer or delivery by the Seller to the Post Office or the Railway or other means of transport for onward transmission to the Buyer at a specified destination.
  - (f) If the Buyer fails to pay the full sum due by it to the Seller on due date, the Seller shall have the right in addition to recovering the amount due to it, to cancel the Contract and resume possession of the equipment and/or to recover from the Buyer payment for any damage to the equipment and/or to withhold the completion of any uncompleted portion of the Contract between it and the Buyer
  - (g) The buyer is not entitled to set off any amount claimed by the Buyer as owing to it by the Seller against any debt or amount due, owing and payable by the Buyer to the Seller
  - (h) A certificate by one of the members of the Seller or Seller's credit controller, showing the amount due and owing by the Buyer to the seller at any given time shall be prima facie proof of the fact therein stated for the purpose of any legal proceedings for the recovery for the said amount and as evidence of the interest owing by the buyer to the Seller in respect of the overdue amounts.
  - (i) Credit facilities granted to the Buyer may be withdrawn by the Seller at any time without prior notice and the extent and nature of such facilities shall at all times be in the Seller's sole discretion.
  - (j) The Buyer acknowledges that the Seller is entitled at its own discretion to appropriate any payment which the Seller may collect from the Buyer to any part of the account.
  - (k) The Buyer agrees that interest shall be payable by the Buyer on all monies due to the Seller at the rate of 24% (twenty four per centum) per annum from the date when payment is due to the date of payment.
8. **CLAIMS:** The Buyer shall inspect condition and quantity of equipment received by it and agrees that it shall have no claim against the Seller unless it notifies the Seller in writing of any visible fault or shortage within 7 (seven) days after it has received the equipment.

9. **CANCELLATION OR RETURNS:** Cancellation or returns after acceptance of the Tender will not be considered or be valid unless a cancellation fee acceptable to the Seller is paid by the Buyer.
10. **WARRANTY:** The Seller warrants that all equipment supplied by it is free from defects in workmanship and material under normal use and service but the Seller's entire liability under this Warranty and resulting from the sale of the equipment, is at its option either to repair or replace defective equipment free of charge which during the period of 12 (twelve) months after delivery is found by the Seller's inspection (at the Seller's option either at the site of installation or its workshops), to be defective in workmanship or material and this Warranty is subject to the following limitations and undertakings of the Buyer, namely
- (a) Mechanical or electrical items which are of an expendable nature and subject to wear and tear are excluded from the Warranty;
  - (b) That the Buyer shall return, should the Seller so direct, alleged defective equipment to the Seller's work, carriage paid;
  - (c) If it is necessary for the Seller or its staff or agents to proceed to the site of installation that the Buyer will pay travelling charges, travelling time, accommodation and time spent on site by the Seller's servant or agent.
  - (d) That any fault or default in equipment shall be notified to the Seller within 7 (seven) days of discovery; and
  - (e) This Warranty does not specifically apply to equipment not normally sold nor represented by the Seller.
11. **LIMITATION OF SELLER'S LIABILITY FOR LOSS:**
- (i) The Seller shall not under any circumstances whatsoever be liable for any loss (which expression in this Clause includes injury, damage or delay) or for the consequence of any such loss arising out of any cause whatsoever including any malfunctioning of or defect in or failure of any of the equipment or any loss of use of any equipment notwithstanding negligence in the manufacture of the equipment.  
  
The Buyer indemnifies and holds the Seller harmless against any claim by or loss or damage to any person or property directly or indirectly occasioned by or arising from the use or operation or possession of any equipment sold or arising from default (including non-compliance with any obligation of the Tender, any delay, any wrong information and any lack of required information) or misuse by or on the part of the Buyer or any person or persons of the equipment. This indemnity shall extend to any costs and expenses incurred by the Seller.
  - (ii) Furthermore, the Seller shall not under any circumstances whatsoever, not even by virtue of negligence, be liable for any loss for the consequence of any such loss arising out of any damage howsoever occasioned to any equipment of the Buyer, whether supplied to the Seller as free issue or otherwise, whilst the said equipment is in the possession of the Seller at its premises, and/or whilst being commissioned by the Seller, and/or whilst being worked on by the Seller at the premises of the Buyer or at any other place whatsoever, and/or whether the equipment be in the Seller's possession for repairs and/or evaluation and/or for inclusion in a system or panel being manufactured by the Seller for the Buyer, and/or for any other purposes whatsoever, and/or whilst the said equipment is being transported to and from the Seller's premises.  
  
The Buyer's equipment accordingly shall be insured by the Buyer at the Buyer's own cost against any damage or loss being occasioned thereto whilst being worked on by the Seller and/or whilst it is in the possession of the Seller for any purpose whatsoever arising out of this Agreement. The said equipment accordingly shall be at the sole risk of the Buyer at all times. The word "Seller" in this paragraph ONLY shall be meant to include "the Seller's employees, Directors, and/or servants" wherever it appears in this paragraph.
12. **PATENTS:** If any action or proceeding is brought against the Buyer for alleged infringement of any letters patent by the equipment or any part thereof supplied hereunder or any allegation of such infringement is made, the Buyer shall give the Seller immediate notice in writing of such allegation or infringement or of the institution of any action or proceeding.
13. **COMPLIANCE WITH PURCHASER'S SPECIFICATIONS:** Equipment supplied by the Seller might not necessarily meet the exact specifications laid down by the Purchaser in the Tender but the Buyer agrees to examine the Manufacturer's specifications in regard to the equipment and to accept the equipment if it conforms or nearly conforms with the exact specifications contained in the Tender.
14. **MATERIALS OF CONSTRUCTION AND RECOMMENDATIONS:** Recommendations regarding the suitability of materials of construction are made by the Seller in good faith but the Buyer agrees that the Seller shall not be responsible for such recommendations and particularly so if anything supplied fails in an adverse environment. The Buyer will satisfy itself that all materials offered are suitable.
15. **INSTALLATION AND COMMISSIONING:** The Buyer shall undertake all work necessary for putting the equipment into proper condition for operating and the Seller shall not be responsible for installation and commissioning of the equipment or any other outside work.
16. **PRIOR SALE:** If the Seller quotes delivery within a period of 3 (Three) months such quote is subject to equipment not having been previously sold.
17. **LAW OF THE CONTRACT:** Any dispute arising out of this Tender or any agreement entered into as a result thereof shall be subject to and construed in accordance with South African Law.

**END OF SILICON ENGINEERING CONDITIONS OF SALE**