

ACI CONTROLS, INC.

TERMS AND CONDITIONS OF ORDERS

ACI Controls, Inc.'s ("ACI's") transactions with customers are subject to the following terms and conditions. These terms and conditions may change at any time without notice.

1. **MINIMUM BILLING** – Exclusive of any freight charges, ACI's minimum billing is \$40.00 – net; orders amounting to less than \$40.00 (exclusive of freight) will be charged at a minimum, a \$25.00 processing fee up to a maximum of \$75.00.
2. **TERMS OF PAYMENT** – Net 30 days
3. **SELECTION OF EQUIPMENT/PRODUCT** – Customer is responsible to take all necessary steps to assure that its selection meets all performance and safety requirements and specifications, including any applicable laws, regulations, codes and standards. ACI assumes no responsibility for the effects of any choices made by customer.
4. **INDEMNITY AGAINST CLAIMS** – The customer agrees to protect, indemnify, defend and hold harmless ACI, its Directors, Officers, employees and agents from and against any losses, personal injury (including death) or property damage claims, suits, actions, expenses, losses or damage whatsoever, including but not limited to the claims (including punitive damages), demands, suits, and other liabilities, together with attorneys' fees, and other expenses of litigation or defense which occur, either directly or indirectly, because of: damages to all property including loss of use and down time; inadvertent misrepresentation, contamination or of adverse effects on the environment, including, but not limited to, the cost of assessment, remediation and other related activities, which occur in connection with the performance of the work of the products contemplated hereunder, regardless of ACI's fault or negligence.
5. **VENUE** – Customer agrees that any litigation associated with the purchase of any product from ACI shall occur in the New York County where the ACI office is located and from which the product was purchased; in the event of litigation in the United States District Court, venue shall be limited to the United States District Court for the Western District of New York.
6. **PRODUCT RETURNS** – No returns for credit, warranty repairs or evaluation will be allowed without prior manufacturer authorization. All warranties on

any product are subject to the terms and conditions of the manufacturers' warranties. Transportation charges to ACI must be prepaid by the customer.

7. FREIGHT CHARGES – Unless otherwise negotiated for and approved by ACI Controls, Inc.'s management, purchaser is subject to inbound and outbound freight charges: FOB factory.
8. WARRANTY – The manufacturer (not seller) normally warrants that the products sold hereunder shall be free from defects in material or workmanship as stated in the manufacturer's standard warranty. The manufacturer's warranty comprises the sole and entire warranty pertaining to the products provided by seller. ACI Controls/Seller makes no warranty, guarantee, or representation of any kind whatsoever. All warranties by (or against) seller, including but not limited to, merchant ability and fitness for purpose, whether express, implied or arising by operation of law, trade usage, or course of dealing are hereby renounced and disclaimed, and in particular buyer waives and renounces as against seller any warranty against hidden defects. There are no warranties on products built or acquired fully or partially to buyer's designs or specifications.

Seller hereby assigns to buyer any warranty claims seller has against the manufacturer as to products sold to buyer. A copy of the manufacturer's written warranty, if any, is usually furnished prior to, or with, delivery of the products being purchased by buyer; however, if buyer has not yet received such a copy of a written warranty from the manufacturer, upon receipt of buyer's specific request for such a copy, seller will endeavor to obtain a copy of the manufacturer's written warranty, if any, and forward a copy of said written warranty, if any, to buyer.

9. NUCLEAR INDEMNITY – If the goods are to be used in any nuclear installation or activity, the buyer or the ultimate user (i) shall secure and maintain the maximum nuclear property damage liability insurance protection available, (ii) shall enter into and maintain a government indemnity agreement, and (iii) shall waive and require its insurers to waive all rights of recovery or subrogation against ACI Controls and shall indemnify and hold ACI Controls harmless from and against any claims, losses, or damages.
10. ATTORNEYS' FEES – In the event that default should occur in the payment for the goods sold hereunder, buyer agrees to pay ACI Controls Inc.'s reasonable attorneys' fees and court costs incurred by ACI Controls to enforce payment thereof.

