

## **NIXON FLOWMETERS TERMS AND CONDITIONS REVISION 02/05**

Unless otherwise agreed in writing, all orders are accepted subject to the following Terms and Conditions, which alone shall apply in the Contract to the exclusion of any terms or conditions proposed by the customer. If an order is placed by the customer referable to the quotation of Nixon Flowmeters, it is expressly agreed that any such order shall be deemed not to include any terms or conditions forming part of or annexed to or referred to in such order, save as appear on the face of the order, and any such terms and conditions shall be deemed not to form part of the order.

### **Prices and quotations**

1. (a) All orders are accepted on the understanding that the merchandise will be charged for at the price ruling on the date of despatch unless the prices have been made firm for an agreed period, and will be subject, if appropriate, to the addition of Value Added Tax.
- (b) Quotations and times for despatch are conditional on complete details of the customers' requirements having been supplied and where specifications are to be supplied the customer shall supply such specifications in reasonable time to enable Nixon Flowmeters to complete delivery within the period named. Time will run only from the date when all requisite information is supplied.

### **Payment Terms**

2. (a) Nixon Flowmeters' payment terms are strictly thirty days for sales within the United Kingdom. For all other sales, payment is to be effected by a Sight Draft or Letter of Credit negotiated prior to despatch of goods.
- (b) Property in goods or merchandise shall remain the absolute property of the Nixon Flowmeters until they have received payment in full.

### **Delays in Delivery and non-Delivery**

3. (a) Nixon Flowmeters (the Company) will not be responsible in any way for loss, damage or delay due to strikes, lockouts, labour conditions, transport delays, material shortages, breakdown of machinery, fire accidents of any kind, perils of land, sea or air, or any other cause or contingency whatsoever beyond the control of the Company whether within the meaning of the before mentioned causes or not and whether in respect of deliveries to or by the Company.
- (b) In the event of the fulfilment of the contract being impeded, frustrated or prevented in consequence of hostilities (whether war is declared or not) or the operation of any regulation or Order made by any statutory or duly constituted Authority, the customer shall pay for all goods delivered, work executed or expense incurred in connection with the contract up to the date of the occurrence and the Company's responsibility for further performance or fulfilment of the contract shall cease.
- (c) Any terms as to rate or time of delivery are not to be deemed of the essence of the Contract and the Company shall not be liable for the consequence of any delay.
- (d) The Company will not be responsible for the non delivery of any goods owing to the inability of their suppliers to deliver the same from any cause whatever.
- (e) Unless otherwise expressly provided for in the Quotation, the Company shall deliver the merchandise to the customer ex-company's works. Risk shall pass to the customer on such delivery.

### **Incoterms**

4. Save as inconsistent with the express terms of the agreement and these terms and conditions of sale INCOTERMS 1953 shall apply.

### **Instalment Deliveries**

5. Where, by the Contract, deliveries are to be made by instalments or work executed over a stated period, payment for deliveries made and work executed, strictly in accordance with the terms of the Contract, shall be a condition precedent to further deliveries being made or work executed under the Contract.

### **Delivery**

6. If the customer fails to accept delivery of merchandise ready for delivery at the agreed date, the Company reserves the right to invoice such merchandise and to require payment therefore in the usual way.

### **Loss or Damage in Transit**

7. Except where delivered by the Company's transport and then only when damage or shortage is advised in writing within two days of receipt, no responsibility will be accepted for loss or damage in transit, other than that (if any) accepted by the Carrier whose conditions must be complied with.

### **Packing Materials Etc**

8. Whenever returnable cases and other packing materials are charged, the full amount of the charge will be credited to the customer provided the packing materials are returned in good condition carriage paid to the Company's warehouse within one month of delivery, and the Company is advised within two days of despatch. Descriptive Matter, Performance Figures
9. Drawings, designs, photographs and other descriptive matter are for the purpose of description only, and shall not form part of the Contract. Performance figures given are those quoted by the manufacturers, and may be subjected to change without notice.

### **Guarantee and General Liability**

10. (a) Goods are guaranteed against defects in material and/or workmanship for a period of twelve calendar months from date of delivery.  
(b) Any such defects should be notified in writing to the Company, and the goods should be forwarded carriage paid when the Company at his discretion will either rectify or replace such goods free of charge and return them at the Company's expense.  
(c) Unauthorised repairs or adjustments carried out by the customer shall nullify this guarantee entirely.  
(d) Where it is impractical to return goods for rectification, a site visit may be made, but on the strict understanding that all travel costs will be met by the customer. Agreement in writing must be received by the Company prior to such a site visit, and travel costs shall be met by the customer regardless of the outcome of such site repairs. Proof of faulty goods shall only affect the amount of charges for engineers site time, and in no way shall absolve the customer commitment to pay travel costs. Cancellation and Variation of Orders
11. Orders once placed can only be cancelled or varied with the consent in writing of the Company and on terms which indemnify the Company against loss.

### **Goods Sold F.O.B.**

12. Where goods are sold F.O.B., the responsibility of the Company shall cease immediately the goods are placed on board ship, and the Company shall be under no obligation to give the customer the Notice specified in Section 32(3) of the Sale of Goods Act 1893.

### **Determination of Contract**

13. If the customer shall make default in or commit a breach of the Contract or of any other of the customer's obligations to the Company or if any distress or execution shall be levied upon the customer's property or assets or if the customer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or Receiving order in bankruptcy shall be presented or made against the customer or if the customer is a Limited Company and any resolution or petition to wind up such Company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented or if a Receiver of such Company's undertaking property or assets or any part thereof shall be appointed the Company shall have the right forthwith to determine any contract then subsisting and upon written Notice of such determination being posted to the customer's last known address any subsisting Contracts shall be deemed to have been determined without prejudice to any claim or right the Company may otherwise make or exercise.