

JOHN CRANE SALES TERMS AND CONDITIONS

JOHN CRANE BELGIUM NV, WITH SEAT AT BERGENSESTEENWEG 25, 1651 LOT AND REGISTERED WITH THE CROSSROADBANK OF ENTERPRISES UNDER NUMBER 0414.348.564 ("SELLER") WILL ACCEPT BUYER'S ORDER REFERRED TO ON THE ACCOMPANYING QUOTATION PROVIDED THAT BUYER ASSENTS TO THE TERMS AND CONDITIONS SET FORTH BELOW AND ON ANY ACCOMPANYING DOCUMENT(S) AND WAIVES ANY DIFFERING TERMS OR CONDITIONS. SUCH ASSENT AND WAIVER IS EVIDENCED EITHER BY BUYER'S PURCHASE ORDER (ANY CONTRARY TERMS OR CONDITIONS OF WHICH SHALL BE DISREGARDED) OR BY ACCEPTING DELIVERY OF THE FIRST SHIPMENT HEREUNDER. AN AGREEMENT WILL ONLY BE DEEMED TO HAVE BEEN ENTERED INTO IF A BUYER'S ORDER HAS BEEN CONFIRMED BY THE SELLER. ORDERS FROM BUYERS ARE IRREVOCABLE.

1. Payment and Shipping Terms. Terms are net 30 days, FCA Seller's Facility, unless expressly provided to the contrary on the accompanying quotation. Any amount not timely paid shall bear a late charge of one and one-half percent (1.5%) for each month or fraction of a month computed on the outstanding balance until paid in full; provided, however, that such late charges shall not exceed the maximum amount allowed by law.
2. Titles and Risk of Loss. Title to products shall pass only upon full payment received by Seller in relation with the underlying agreement and/or previous or subsequent agreements of the same nature or in relation with services and/or work undertaken, including purchase price, damage, costs and interests. Buyer does not have a right of lien on these products and is not entitled to encumber or to establish limited rights on the products delivered by Seller as long as full payment has not been received. Buyer is obliged to apply reasonable care to all products on which a reservation of ownership rests, to store these products separately from all other products of Buyer and third parties, to provide access to these products to Seller and to inform Seller in writing of any action of third parties, which relate or could relate, in a detrimental way for Seller, to the delivered products. Notwithstanding the foregoing, all risk of loss shall be borne by Buyer from the time of delivery of the products by Seller to a public carrier or other manner of transportation.
3. Tooling. Charges for tools, dies and other equipment cover only a portion of their cost and ownership and sole right to possession and use thereof shall not pass to Buyer but shall remain with Seller.
4. Cancellation. Seller, at its option and in addition to its other remedies, may without liability cancel this order or refuse shipment, if (a) Buyer is in default in any payments or other performance due to Seller under this or any other agreement (b) Buyer becomes insolvent or a petition in bankruptcy is filed with respect to Buyer (or similar event) or (c) causes beyond Seller's control (article 6 – Force Majeure) make it impossible to assure its timely performance. Buyer may cancel the remaining unfilled portion of its order only upon written consent of Seller and payment of the full price for that portion of the order that Seller has substantially completed at time of cancellation plus reasonable cancellation charges which shall include the full profit plus all costs incurred in connection with the canceled portion of the order such as overhead and administrative costs, commitments made by Seller as a consequence of Buyer's order and the cost of all work-in-progress. Cancellation charges shall not exceed the purchase price of the canceled portion of the order.
5. Price. Seller reserves the right to correct quantities or prices due to typographical, clerical, or mathematical errors. The price stated in Seller's quotation or acknowledgment is based upon Seller's current costs. If costs increase during the life of this order, Buyer will be notified of any adjustment of the price; provided, however, that no price adjustment will be made without Buyer's agreement on orders for delivery within 30 days of the date of a price quotation. Buyer shall reimburse Seller for any excise, sales, use and VAT or other taxes incident to this transaction for which Seller may be liable or which Seller is required by law to collect.
6. Delivery and Force Majeure. Delivery dates are merely informative and are not binding upon parties, unless explicit written engagement to the contrary. Seller has the right to deliver in parts. For the application of these Terms and Conditions, each and every delivery will be considered as a separate delivery. Seller shall not be liable for any total or partial failure to deliver or for any delay in delivery or production due to causes beyond its control, including but not limited to acts of God, war or civil unrest, fires, strikes, natural disasters, delays in transportation, or inability to obtain necessary labor or raw materials. Seller shall not be liable in any event for any costs, including but not limited to direct, special, indirect or consequential damages on account of failure or delay in delivery regardless of the cause, except in case of own willful default of the Seller.
7. Assurance of Performance. If Buyer is delinquent in payment at any time, or if in Seller's judgment, Buyer's credit becomes impaired or unsatisfactory, Seller may, in addition to its other remedies, cancel Buyer's credit, stop further performance, and demand cash, security or other adequate assurance of payment satisfactory to it.
8. Liability. Seller shall not be liable for products of which the internal package was modified without the prior consent of Seller and which were put on the market by Buyer. Advice in speech, writing or otherwise about the application of a product in general, as well as regarding possible rights of third parties is given for information purposes only by Seller and are, therefore, non-committal. Advice does not release Buyer from his obligation to inspect the suitability of the products for the purpose set forward by him or his customers. In case there is a defect, as described in the Law of 21 February 1991 regarding the liability for defective products, in the products delivered by Seller, or in case products delivered by Seller are or are expected to be unsafe in the sense of the law of 9 February 1994 on the safety of products and services, Buyer shall cooperate with Seller, at her request, with a 'product recall' initiated by Seller. This provision also applies if Buyer has already transferred the products to a third party or if there is a presumption or fear that a defect will occur.
9. Limited Warranty. Seller warrants for a period of one year following original shipment by Seller (or for Type 28 Gas Seals 12 months from installation or 24 months following original shipment by Seller, whichever occurs first) that its products are free from defects in material or workmanship furnished by Seller. Seller will repair or at its option replace free of charge any product found by it within such warranty period to be defective in breach of said warranty upon return thereof transportation prepaid to the location specified by Seller. No returns will be accepted without prior written authorization by Seller. The foregoing is seller's sole warranty and buyer's exclusive remedy and is in lieu of all other warranties, representations or guarantees, express or implied which are hereby excluded, including warranties of merchantability and fitness for a particular purpose. Without limiting the foregoing, in no event shall seller be liable for loss of use or profits or for any special, indirect, consequential, punitive or other damages of any kind, or for defects in design or engineering whether performed by it or by others, or for any amounts in excess of seller's net price of the product in question whether such amounts are claimed to result from breach of contract or warranty, negligence, strict liability or otherwise. Nothing in these terms and conditions shall operate to exclude or restrict seller's liability (if any): for death and personal injury or own willful default.
10. Production Performance Estimates. Any production or performance standards furnished by Buyer may depend on several variable factors, and as such no results or estimates are guaranteed.
11. Compliance with Laws and Warnings. In those instances in which Seller provides health or safety information, warning statements, and/or instructions in connection with the installation, use or maintenance, including preventive maintenance, of its products (and Seller assumes no obligation to do so), Buyer agrees to comply with all such information, warnings and instructions. Buyer further agrees to communicate all such information, warnings and instructions to its employees, agents and subcontractors, and to subsequent buyers and users of those products. Buyer will comply with all applicable laws. Buyer will indemnify and hold Seller harmless for Buyer's breach of these terms and conditions.
12. Repairs: Job Lapping. Seller shall have no liability whatsoever, except for own willful default for spoilage or damage to any products, parts or stock furnished for lapping or repair. In addition to the specific exclusions in paragraph 8 above, Seller's liability shall be limited to cases of its negligence, and then only to the extent of cancellation of its charges for lapping or repairing the spoiled or damaged parts, products or stock.
13. Confidentiality. All technical and commercial information and ideas which Seller has supplied or shall supply Buyer, but excluding information in the public domain or property in Buyer's possession in tangible form before receiving such information from Seller, ("confidential information") is proprietary to Seller and is disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation or use of Seller's products. Buyer shall not without Seller's prior written consent, disclose or make available such confidential information to any other person or use such confidential information except for such limited purpose. All confidential information shall be returned to Seller on demand, and, in any event, when no longer needed by Buyer in connection with Seller's products. In addition to Seller's other remedies, Buyer agrees that any benefit or property derived by Buyer from any unauthorized use of confidential information shall be the sole and exclusive property of Seller.
14. Shortages. Claims for shortages must be made within five days after receipt of goods. All other claims must be made within 30 days of shipping date (except for warranty claims, which are governed by Paragraph 8 above).
15. Patents. Buyer will protect and indemnify Seller against all claims arising out of patents, designs, trade secrets, copyrights, or trade names with respect to products manufactured wholly or partially to Buyer's designs or specifications, including any costs, expenses, loss, attorneys' fees, settlement payments, or damages.
16. Government Contracts. If the items purchased hereunder are to be used in fulfilling a contract with any national government, Seller will comply with all mandatory provisions required by such government applicable to Seller, provided that Buyer gives Seller written notice of such provisions in sufficient time to permit compliance.
17. Amendments and Survival. No addition to, modification or revision of the terms and conditions contained herein shall be valid unless in writing, and signed by duly authorized representative of Seller. Sections 3, 4, 6, 8, 10, 11, 12, 14, 16, 17, 18, 19, 20 and 21 shall survive the expiration or termination of these terms and conditions.
18. Governing Law and Severability. This agreement is subject to the laws of Belgium and the Parties hereby submit to the jurisdiction of the Courts situated in such jurisdiction. If any term or condition hereof is found to be illegal or unenforceable, such term shall be deemed to be severed from the contract and this shall not affect the balance hereof which shall remain in full force and effect. Both Seller and Buyer acknowledge and agree that the UN Convention on Contracts for the International Sale of Goods shall not apply to this order.
19. Code of Conduct. Seller is committed to conducting its business ethically and lawfully. To that end the Seller, through its ultimate parent company, Smiths Group plc, maintains a Code of Corporate Responsibility and Business Ethics and mechanisms for reporting unethical or unlawful conduct. The Seller expects that the Buyer will also conduct its business ethically and lawfully. If the Buyer has cause to believe that the Seller or any employee or agent of the Seller has behaved unethically or unlawfully under, or in connection with, these terms and conditions, Buyer is encouraged to report such behavior to the Seller or to Smiths Group plc. Smiths Group plc's Code of Corporate Responsibility and Business Ethics and mechanisms for making such reports are available on www.smiths-group.com.
20. Export Regulations and Destination Control Statement. If the commodities, technologies or software sold hereunder are exported from the country where Seller resides, they may only be done so in accordance with the laws and regulations of such jurisdiction, and any diversion contrary to such laws is prohibited. Buyer will not export any technical data, or commodities that are controlled by government regulations in violation thereof, and agrees to defend, indemnify and hold harmless Seller from and against any claim, loss, liability, expense or damage (including liens or legal fees) incurred by Seller with respect to any of Buyer's export or re-export activities contrary to applicable export and import controls.
21. Intellectual Property. Notwithstanding delivery of and the passing of title in any product, nothing in these terms and conditions shall have the effect of granting or transferring to, or vesting in, Buyer any intellectual property rights in or to any products.
22. General. Buyer may not assign or transfer all or part of its rights or obligations under this order without the prior written consent of Seller. The Seller may assign or transfer all or part of its rights and to sub-contract any of its obligations under the contract. These terms and conditions constitute the entire agreement and understanding between Buyer and Seller in connection with the subject matter of this order, and supersede all prior oral or written communications, representations or agreements in relation thereto.