

Terms and Conditions of Sale

INTERPRETATION

1.1 In these Conditions:

Buyer means the person who accepts a quotation of the Seller for the sale of the goods or whose order for the goods is accepted by the Seller.

Goods means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.

Seller Murrelektronik Limited (registered in England under number 1695342) with registered office at Albion Street, Pendlebury Industrial Estate, Swinton, Manchester M27 1FJ.

Carrier any company contracted to transport the goods from the Sellers premises to a place nominated by the Buyer.

Conditions means the standard terms and Conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and Conditions agreed in Writing between the Buyer and the Seller.

Contract means the Contract for the purchase and sale of the Goods.

Force Majeure any circumstances beyond the reasonable control of either party including but without limitation any form of industrial action, an Act of God, an act of governmental or regulatory bodies, lack of raw materials, traffic disturbances, unavoidable production interruptions, breakdown of equipment, default or interference caused by others, war or national emergency.

Writing includes telex, cable, facsimile transmissions and comparable means of communication and in the case of the Seller signed by an authorised representative.

1.2 Any reference in these Conditions to any provisions of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 BASIS OF THE SALE

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and Conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 The Sellers employees or agents are not authorised to make any representations concerning the goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.4 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 the Seller shall be subject to correction without any liability on the part of the Seller.

3 ORDERS AND SPECIFICATIONS

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Buyer unless and until confirmed in Writing by the Sellers authorised representative.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of any specification for the goods shall be those that the Sellers quotation (if accepted by the Buyer) or the Buyers order (if accepted by the Seller).

3.4 The range of goods available by the Seller are set out in the Sellers published price list. In line with the Sellers policy of continual improvement, it reserves the right to modify or withdraw any lines without prior notice.

3.5 The Seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable statutory or EC requirements or, where the goods are to be supplied to the Buyers specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4 PRICE OF THE GOODS

4.1 The price of the goods shall be the Sellers quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Sellers published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer for delivery within 60 days of order, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis.

4.3 The price of the goods is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

4.4 On order to cover handling and administration costs of small orders a surcharge will be made on all invoices of under £50.

5 CARRIAGE

5.1 In all cases where the Seller agrees to deliver the goods otherwise than in the Sellers premises, the Buyer shall be liable to pay the Sellers charges for packaging and insurance.

6 TERMS OF PAYMENT

6.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the goods on or at any time after delivery of the goods, unless the goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the goods are ready for collection or (as the case may be) the Seller has tendered delivery of the goods.

6.2 The Buyer shall pay the price of the goods within 30 days of the date of the Sellers invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payments will be issued only upon request.

6.3 If the Buyer fails to make payment as required then, without prejudice to any other rights or remedies available to the Seller, the Seller shall be entitled to:

6.3.1 cancel the Contract or suspend any further deliveries to the Buyer;

6.3.2 appropriate any payment made by the Buyer to such of the goods (or the goods supplied under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

6.3.3 charge the Buyer interest (both before and after any judgement)

7 DELIVERY

7.1 Delivery of the goods shall be made by the Buyer collecting the goods at the Sellers premises at any time after the Seller has notified the Buyer that the goods are ready for collection, or if some other place for delivery is agreed by the Seller, by the Seller notifying the Buyer that the goods have been despatched and delivering the goods to that place.

7.2 Any dates quoted for delivery of the goods are approximate only and the Seller shall not be liable for any delay in delivery of the goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

7.3 Where the goods are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

7.4 If delivery is at some other place than the Sellers premises then any consignment of the goods shall be deemed to have been delivered in its entirety and in a satisfactory condition unless in the case of:-

7.4.1 damage, non-delivery or loss of part of the consignment of goods for delivery within the United Kingdom or Eire, written notice is received by the Carrier and the Seller within 5 days of the date of delivery.

7.4.2 damage, non-delivery or loss of part of the consignment of goods for delivery outside the United Kingdom or Eire, written notice is received by the Carrier and the Seller within 7 days of the date of delivery.

7.4.3 damage, non-delivery or loss of the entire consignment of goods for delivery both within and outside the United Kingdom and Eire, written notice is received by the Seller within 10 days of delivery or receipt by the Buyer or the Sellers notice of despatch.

7.5 If the Buyer fails to take delivery of the goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyers reasonable control or by reason of the Sellers fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

7.5.1 store the goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

7.5.2 sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

8 RISK AND PROPERTY

8.1 Risk of damage to or loss of the goods shall pass to the Buyer:

8.1.1 in the case of goods to be delivered at the Sellers premises, at the time when the Seller notifies the Buyer that the goods are available for collection; or

8.1.2 in the case of goods to be delivered otherwise than at the Sellers premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the goods, the time when the Seller has tendered delivery of the goods.

8.2 Notwithstanding the delivery and passing of risk in the goods the legal and beneficial property and title in the goods shall remain in the Seller and shall not pass to the Buyer until:

8.2.1 the price of the goods and any other items or costs comprised in any invoice has been paid in full to the Seller either by way of cash or cleared funds;

8.2.2 any other sums due from the Buyer to the Seller have been paid in full to the Seller either by way of cash or cleared funds.

8.3 Until such time as the property in the goods passes to the Buyer, the Buyer shall hold the goods as the Sellers fiduciary agent and bailee, and shall keep the goods separate from those of the Buyer and third parties and properly sorted, protected and insured and identified as the Sellers property, but shall be entitled to sell or use the goods in the ordinary course of its business.

8.4 On the occurrence of any of the events listed in clause 11 the Buyers right to re-sell the goods shall cease and the Buyer shall cease and the Buyer shall immediately deliver the goods, property in which is then reserved to or vested in the Seller to such address as the Seller shall specify in default of which, or in the alternative, the Buyer hereby grants the Seller, his agents and employees an irrevocable licence to enter on any premises or land in the ownership or possession of the Buyer where the goods are stored in order to remove or inspect the goods and the Buyer shall indemnify the Seller on a full indemnity basis against all loss, damage, costs or expenses so arising including in particular, without limitation, loss, damage, costs or expenses in respect of third party claims.

8.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

9 WARRANTIES AND LIABILITY

9.1 Subject to the Conditions set out below the Seller warrants that the goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of delivery.

9.2 The above warranty is given by the Seller subject to the following Conditions:

9.2.1 The Seller shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the Buyer;

9.2.2 The Seller shall be under no liability in respect of any defect arising from air wear and tear, wilful damage, negligence, abnormal working Conditions, failure to follow the Sellers instructions (whether oral or in Writing), misuse or alteration or repair of the goods without the Sellers approval;

9.2.3 The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the goods has not been paid by the due date for payment.

9.3 Subject as expressly provided by the Seller in these Conditions, all warranties Conditions or other items implied by statute or common law are excluded to the fullest extent permitted by law.

9.4 Any claim by the Buyer which is based on any defect in the quality or condition of the goods shall (whether or not delivery is refused by the Buyer) be notified to the Seller immediately on the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure and any defective goods or parts must be returned to the Seller if the Seller so requires (carriage for the account of the Seller). If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the goods had been delivered in accordance with the Contract.

9.5 Where any valid claim in respect of any of the goods which is based on any defect in the quality or condition of the goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the goods (or part in question) with non-defective goods free of charge (carriage for the account of the Seller) or, at the Sellers sole discretion, refund to the Buyer the price of the goods (or proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.6 The Seller accepts liability for death or personal injury which is due to the negligence of the Seller in performing the Contract.

9.7 The Seller accepts liability for direct physical damage to the tangible property of the Buyer due to the negligence of the Seller in performing its obligations under the Contract PROVIDED THAT the Sellers total liability under the Contract for any such damage shall not exceed the sums actually paid by the Buyer at the date of the claim by the Buyer.

9.8 In the event that the Seller fails to comply with its obligations under the Contract after it shall have been a reasonable opportunity to correct such failure then its total liability to the Buyer in damages for losses suffered by the Buyer shall not exceed the sums actually paid by the Buyer at the date of the claim by the Buyer.

9.9 The amount of damages specified in clauses 9.7 and 9.8 above is the total liability accepted by the Seller for any single or series of claims arising from the same cause, unless such claims arise as a result of a breach of clause 9.6 above.

9.10 I no event shall the Seller be liable to the Buyer for any other or further losses costs or damages suffered or incurred by the Buyer as a result of failure to perform or breach by the Seller of its obligations under the Contract including without limitation any consequential or indirect loss or economic loss or damage, loss of profits interest, business revenue or savings and loss of Contracts and whether such losses or damages arise in Contract tort or statute and whether as a result of negligence or otherwise.

10 FORCE MAJEURE

10.1 If the Seller is affected by Force Majeure it shall promptly notify the Buyer of the nature and extent of the circumstances in question.

10.2 Notwithstanding any other provisions of these Conditions the Seller shall not be deemed to be in breach of the Contract, or otherwise be liable to the Buyer, for the delay in performance or the non-performance of any of its obligations under the Contract, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the Buyer, and the time for performance of that obligation shall be extended accordingly.

10.3 After receipt of the Sellers notice that it is affected by Force Majeure the Buyer may after giving the Seller written notice of its intention to do so, purchase goods similar to the goods specified in the Contract elsewhere in such quantities as the Seller is unable to deliver.

11 CANCELLATION BY SELLER

11.1 Without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or agreement to the contrary, if:

11.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

11.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

11.1.3 the Buyer ceases, or threatens to cease, to carry on the business; or

11.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

12 WAIVER

12.1 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13 SEVERANCE

13.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

14 GOVERNING LAW

14.1 The Contract shall be governed by and construed in all respects in accordance with English law and the parties hereby submit for all purposes in connection with the Contract to the non-exclusive jurisdiction of the English courts.