

SCOTT CABLES LIMITED - CONDITIONS OF SALE

1. **DEFINITIONS**

"Seller" Scott Cables Limited (registered number 2817924) whose registered office is at The Old Surgery, The Drove, High Street, Southwick, Hampshire PO17 6EB. "Purchaser" the person, firm or Company whose order is accepted by the Seller as in accordance with Condition 2.2. "Goods" goods or material subject to a Contract. "Contract" the contract of sale to which these terms relate. "Conditions" these Conditions of sale.
2. **APPLICATION OF THESE CONDITIONS**
- 2.1 All orders shall be subject to these Conditions.
- 2.2 The acceptance by the Seller of any order from the Purchaser shall be deemed to incorporate these Conditions and no variation contained in any order form or other document of the Purchaser shall have any force or effect whatsoever unless the Seller has expressly agreed thereto in writing.
- 2.3 The Seller's employees or agents are not authorized to make any representations concerning the Goods unless confirmed by the Seller writing. In entering into the Contract the Purchaser acknowledges that it does not rely on, and waives any claims for breach of, any such representations, which are not so confirmed.
3. **PRICES**
- 3.1 Unless otherwise specified by the Seller all prices are net cash exclusive of
 - a) VAT which will be paid by the Purchaser at the rate then appropriate; and
 - b) The cost of any delivery to any destination including packing, shipping, insurance, postage and carriage duties.
- 3.2 The Seller reserves the right by notice to be given at any time prior to delivery to increase the price of Goods to the extent of any in the price or costs of such Goods to the Seller by virtue of increases in the cost of raw materials, labour, transport, foreign exchange fluctuations, currency regulations, alterations in tax duties or imports or any other cause beyond the control of the Seller. In the event that price increases shall be in excess of 10% of the Contract price of the Goods, the Purchaser will have the right by notice to be given within seven days of receipt of the Seller's notice to terminate the Contract in which event the Contract will cease to have effect and neither party shall have any further claim against the other in respect thereof.
4. **PAYMENT**
- 4.1 Unless otherwise specified by the Seller payment for Goods and the matters referred to in Condition 3.1 shall be made on or before 30 days, from the end of month, following the dispatch by the Seller of the invoice in the respect of the Goods. The time of payment of the price shall be of the essence of the Contract.
- 4.2 If the Purchaser shall fail to pay any monies due to the Seller on any account or if any of the circumstances which would entitle the Seller to suspend or terminate the Contract under condition 10 should occur, the Contract price for all Goods supplied to the Purchaser under the Contract and on any other account shall immediately become due and payable.
- 4.3 All monies on any account shall become due and payable to the Seller shall carry interest at 5% per annum above National Westminster Bank Plc base rate for the time being calculated on a daily basis until payment in full is made (a part of the month being treated as a full month for the purpose of calculating interest.)
- 4.4 The Seller shall be entitled to appropriate payments received from the Purchaser howsoever tendered in satisfaction of any account, which may then be outstanding.
- 4.5 If in the opinion of the Seller the credit of the Purchaser is doubtful, the Seller shall be entitled to require that delivery be made against cash or a banker's draft.
5. **DELIVERY**
- 5.1 Any delivery date quoted by the Seller shall be deemed to be an estimate only and the Seller shall not be under any liability to the Purchaser for late delivery provided that if delivery is not made by the Seller within 14 days of the quoted delivery date (except as a result of the matters referred to in condition 8.1) the purchaser shall have the right by notice in writing to the Seller to terminate the Contract in respect of Goods which are in delay, in which event the Contract therefore shall cease to have effect in respect of such Goods and neither party shall have any claim against the other in respect thereof.
- 5.2 The Seller shall be entitled to make delivery by instalments in accordance with any agreed schedule with the Purchaser. Once the schedule has been agreed, the Purchaser shall not be entitled to cancel or vary the schedule for any reason whatsoever unless agreed in writing by the Seller. If the Purchaser wishes to delay or alter any provisions of the schedule, any delay, or alteration must be agreed in writing by the Seller.
- 5.3 Unless otherwise agreed in writing by the Seller delivery shall be to the Purchaser at an address of the Purchaser in the mainland of England, Scotland and Wales shown on the purchase order.
- 5.4 If the Purchaser shall fail to take delivery within seven days of notice by the Seller that the Goods are ready for delivery, the Purchaser shall be liable for extra expense incurred by the Seller as a result thereof including a reasonable charge for the cost of insuring and storing the Goods pending delivery.
- 5.5
 - a) All claims for damage to or partial loss of Goods in transit must be made by notice in writing to the Seller within seven days of delivery to the Purchaser or the agent of the Purchaser and any delivery note must be endorsed accordingly on delivery; and
 - b) All claims of non-delivery of the whole consignment or package must be made by notice in writing to the carrier and the Seller within seven days of receipt by the Purchaser or the agent of the Purchaser of the Seller's invoice or advice note (whichever is received first);
 - c) In the absence of notification of claims in accordance with the provisions of this Condition the Purchaser shall be deemed to have received the Goods in accordance with the terms of the Contract.
- 5.6 The rights of the Purchaser under Condition 5.1 shall constitute the sole and exclusive remedy of the Purchaser for late or non- delivery of the Goods.
6. **PROPERTY AND RISK**
- 6.1 Risk of damage to or loss of the Goods shall pass to the Purchaser on delivery.
- 6.2 Full legal and beneficial ownership of the Goods shall remain with the Seller until the Seller has received full payment for the Goods in cash or cleared funds and the Purchaser shall until payment as aforesaid, hold the Goods as bailee for the Seller and separately store and identify the same until the property in the Goods passes to the Purchaser. The Purchaser shall be entitled to re-sell or use the Goods in the ordinary course of business, but shall account to the Seller for the proceeds of the sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any money or property of the buyer and third parties, and, in the case of tangible proceeds properly stored, protected and insured.
- 6.3 Until such time as the property in the Goods passes to the Purchaser, the Seller shall be entitled at any time to require the purchaser to deliver up the Goods to the Seller and if the Purchaser fails to do so forthwith, to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.
- 6.4 The Purchaser 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 Purchaser does so all the monies owing to the Seller shall (without prejudice to any other right of remedy of the Seller) forthwith become due and payable.
7. **THE GOODS**
- 7.1 Subject to clauses 7.2 and 7.4 below the Seller undertakes that the Goods will be manufactured in accordance with published specifications. Where the Purchaser provides detailed configurations and requires the Goods to be manufactured in accordance with configurations supplied by the Purchaser the Seller undertakes that the Goods will be manufactured in accordance with such configurations provided, however that the Seller shall be under no liability in respect of any defect in the Goods arising from any configurations supplied by the Purchaser.
- 7.2 No condition or term is made or is to be implied and no warranty or representation is given or to be implied as to the suitability of the Goods for any particular purpose or for use under any specific conditions not withstanding that the Seller may be aware of such purpose or conditions and the Purchaser shall be deemed to purchase on the basis that the Purchaser has made a full investigation of the qualities and suitability of the Goods for the purpose of the Purchaser. Without prejudice to the generality of the foregoing the Seller does not act a consultant or advisor as to the suitability of cabling materials unless it specifically agrees to do so in writing and its recommendations are contained in writing.
- 7.3 The Seller shall not be liable to the Purchaser by any reason or representation or any implied warranty condition or any other term, or any duty at common law or under the express terms of the Contract for any indirect or consequential loss or damage (whether for loss of profit or otherwise, including, without limitation, business interruption, loss of use of revenue, cost of capital or loss or damage to property or equipment) or any costs, expenses or other claims for consequential compensation whatsoever (and whether caused by negligence of the Seller, its agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Purchaser, except as expressly provided in these Conditions.
- 7.4 The Purchaser shall give notice in writing to the Seller of any claim that any Goods are defective or not in accordance with the Contract within twelve calendar months of delivery and in the event that such claim shall be shown to be justified the Seller shall (at its option) repair or replace the relevant Goods or refund the Contract price in respect thereof. Failure by the Purchaser to give such written notice within the applicable one-year period shall be deemed an absolute and unconditional waiver of Purchaser's claim for such defects.
- 7.5 The rights of the Purchaser under Condition 7.4 shall constitute the sole and exclusive remedy of the Purchaser in respect of any defects in the Goods of any non compliance with the Contract and shall have effect to the exclusion of and in replacement of all other warranties and terms and conditions express or implied and all obligations and liability whether arising under common law, statute, or otherwise and all liability for loss or damage caused or arising in relations to the Goods.
- 7.6 If the Seller is held liable for any costs or losses under the Contract then the Seller's liability shall be limited to the amount of the purchase price for the Goods paid by the Customer at the date the liability arose.
8. **FORCE MAJEURE**
- 8.1 The Seller shall be under no liability to the Purchaser to the extent that the performance of the Contract is prevented or hindered by reason of force majeure which shall include (by way of example and not limitation) act of God, civil commotion, fire, explosion, accident, labour disputes (official or unofficial) shortage of power supplies, material or labour, The inability to the Seller to obtain supplies from its suppliers on normal trade terms or any other cause (whether or not of the same nature as the foregoing) beyond the control of the Seller.
- 8.2 If as a result of any of the matters referred to in this Condition, delivery is delayed for more than 28 days after the quoted delivery date the Purchaser shall have the right by notice in writing to terminate this Contract in respect of the Goods in delay in which event the contract therefore shall cease to have effect in respect of such Goods and neither party shall have any claim against the other in respect thereof.
9. **SUSPENSION AND TERMINATION**
- The Seller shall be entitled by notice in writing to the Purchaser to suspend performance of the Contract or to terminate the same without prejudice to any rights and remedies and any claims which shall have accrued in each of the following: -
 - a) the Purchaser shall fail to make any payment when the same becomes due or shall enter into any composition or arrangement with creditors or cease to trade in the ordinary course; or
 - b) if the Purchaser shall fail to take delivery within the time specified in Condition 5.4 (where a cancellation charge of 15% shall be incurred); or
 - c) the Purchaser (being a company) has a receiver appointed or passes a resolution for winding-up or if a court shall make an order to that effect or if (not being a company) a receiving order shall be made against the Purchaser; or
 - d) if the Purchaser shall be in breach of any of the terms and conditions hereof or fail to make any payment due to the Seller or on any other account.
10. **APPLICABLE LAW**
- This contract is governed by English law and the parties hereto submit to the exclusive jurisdiction of the English courts in relation to any disputes arising pursuant thereto or in connection therewith.
11. **VARIATIONS**
- No variation to these Conditions or to the Contract shall have effect unless agreed in writing by the Seller.
12. **NOTICES**
- Any notice to be given by either party shall be deemed to be validly given:
 - a) by fax – on the day of sending;
 - b) by prepaid first class post - to an address in the U.K. within two days of sending and to an address outside the U.K. within seven days from the day of sending.
13. **ASSIGNMENT**
- The purchaser shall not assign, or deal or make over in any way with the benefit of this Contract without the prior written consent of the Seller and any such assignment, without such consent, shall be void.
14. **MISCELLANEOUS**
- 14.1 No forbearance, delay or indulgence by the Seller in enforcing the provisions of these Conditions shall prejudice or restrict its rights nor shall any waiver of its rights operate as a waiver of any subsequent breach. No right, power or remedy conferred upon or reserved for the Seller by these Conditions is exclusive of any other right, power or remedy available to it and each such right, power or remedy shall be cumulative.
- 14.2 The Contract supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter of the Contract.
- 14.3 Notwithstanding that the whole or any part of any provision of these Conditions may prove to be illegal or unenforceable the other provisions of these Conditions and the remainder of the provisions in question shall remain in full force and effect
15. **ENVIRONMENTAL IMPACT**
- The Purchaser acknowledges that the Supplier operates in accordance with the requirements of ISO14001. It therefore encourages all its Purchasers to minimise the adverse environmental impact of their activities.