

# STANDARD TERMS AND CONDITIONS OF SALE OF RADIOTRADE LIMITED ("Seller")

## 1. ACCEPTANCY

All quotations written or verbal are made and orders accepted subject to the following express terms and conditions and no additions or alterations (including in particular any terms or conditions of Buyer's contract or order form) shall apply unless specifically agreed in writing by the Seller. In the absence of written acceptance of these terms, the giving of any instruction for work or delivery or acceptance of or payments for any of the articles covered hereby shall constitute an acceptance of these terms. All orders and contracts are received subject to review and acceptance in writing by Seller at its facility in the U.K. at the address shown on the attached quotation or contract, herein called "Seller's facility". Typographical errors are subjected to correction. Minimum charge on each order will be £10 and all orders where the quantity has a total price of less than this amount will be invoiced at £10.

## 2. DELIVERY, RISK AND TITLE

Any stated delivery date, period or rate is given as a guide only and the Seller accepts no responsibility for loss or damage resulting from delay howsoever arising.

(1) Unless otherwise agreed upon, all shipments are made at Seller's facility, packed and packaged in accordance with Seller's standard practice for UK and export air freight shipment.

(2) The risk in the goods shall pass to the Buyer at the point of delivery specified in the Buyer's purchase order or written instruction to proceed. Risk does not pass to the Buyer for goods which are on loan or demonstration.

(3) Notwithstanding delivery and the passing of risk:

- (a) The property in the goods shall remain in the Seller until the Buyer has paid all monies in cash or cleared funds owed by it to the Seller (i) under this contract and (ii) under any other contract between the Buyer and the Seller or on any account whatsoever.
- (b) Until such payment is made and funds cleared, the Buyer shall hold all goods and materials, the property in which is vested in the Seller, only as Agent for the Seller and shall store such goods and materials at no cost to the Seller so that they are clearly identified as belonging to the Seller.
- (c) So long as the property in any goods or materials rests in the Seller pursuant to this Condition, the Buyer may sell the same in the ordinary course of its business (but not otherwise) and the proceeds of such sale or the Buyer's claim for such proceeds shall be held by the Buyer as agent for the Seller until such payment is made as aforesaid.
- (d) If the Buyer shall enter into liquidation or receivership or composition with its creditors or upon any breach by the Buyer of any of its obligations hereunder whether as to payment or otherwise the Seller may (without prejudice to any of its other rights and remedies) by notice in writing revoke the Buyer's authority to sell such goods and materials as aforesaid and recover and resell any or all of such goods or materials and may enter upon the Buyer's premises for that purpose.
- (e) The property in the goods which are on loan or for the purpose of demonstration shall remain in the Sellers at all time.
- (f) Nothing herein shall give the Buyer the right to return goods to the Seller.

## 3. COST, INSURANCE AND LICENCES (GOODS FOR EXPORT)

Seller will obtain and pay for all necessary export licences or clearances and no control will come into force unless and until they have been received by Seller. Unless otherwise agreed upon, Buyer shall obtain and pay for any necessary or other insurance and import licences or clearance in the country of destination. Buyer shall also bear all other costs of sale after delivery to the f.o.b. point including without limitation, duty, taxes, freight, insurance and shipping or handling costs.

Notwithstanding any or all of the foregoing (i.e. commitment to ship or otherwise perform) it is agreed and understood by the parties hereto that the schedule for supply of equipment and performance of work under the agreement shall be extended by the amount of time required by Seller to obtain any export licence and that, furthermore, Seller shall be excused from any liability whatsoever under the agreement or otherwise in the event that any such required licence and/or other approval or approvals as the case may be, is (or are) not granted to Seller after Seller has made all reasonable efforts to obtain such licences and/or other approval or approvals.

## 4. PRICES

- (a) All prices are quoted f.o.b. at Seller's facility unless otherwise agreed upon. Any prices quoted are exclusive of, and may be adjusted for, any Tax or Duty due thereon and may be increased for the supply of any quantity smaller than that quoted for.
- (b) The Buyer expressly forgoes the right statutory or otherwise to offset deduct without payment from all amounts due for goods, services, maintenance, repair due from the Buyer to the Seller from time to time.

## 5. TERMS AND PAYMENT

Unless otherwise agreed upon, all prices are in Sterling or U.S. dollars as specified in the quotation and shall be paid in full at Seller's facility in the U.K. Terms of payment for non-credit account customers is on order of equipment and no later than the day of shipment. Terms of payment for equipment sold to credit account customers are net within 30 days from date of shipment from Seller's facility in the U.K. to the consignee as designated by the Buyer. Terms of payment for installation sold to credit account customers are net within 30 days from invoice date. If shipments are made in instalments, each instalment shall be separately invoiced and paid for when due without regard to other shipments. Seller reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any articles when due or for any other reason deemed good and sufficient by Seller, and in such event all subsequent shipments shall be paid for prior to delivery. In the event Seller exercises any rights it may have to stop articles in transit because of Buyer's financial condition, Seller may at its option resell such articles at public or private sale without notice to Buyer and without affecting Seller's rights to hold Buyer liable for any loss or damage caused by Buyer's breach. For goods under Contracts outside the U.K. Buyer will establish (i) sight draught against shipping document or (ii) confirmed irrevocable letter of credit in favour of the Seller at a London Bank acceptable to Seller in the total amount of contract price payable in Sterling. The letter of credit shall permit part shipments and provide for payment against shipping documents for each consignment, and have a validity not less than 3 months longer than the Seller's quoted delivery period from date of order.

If Buyer defaults in any of his commitments with Seller or distress or execution upon his property or assets or makes or offers to make any arrangement of composition with creditors or commits an act of bankruptcy or has a receiver or administrator appointed over its assets or a Resolution or Petition to wind-up its business presented, then the Seller shall have the right (without prejudice to any other remedies) to cancel any uncompleted order or to withhold or to suspend delivery.

## 6. EXPORT OF TECHNICAL DATA

Buyer agrees to comply with all applicable export regulations in respect of products or technical data sold or supplied to the Buyer.

## 7. CHANGES

Buyer may with Seller's consent, and subject to agreement of the price adjustment referred to below by written order, make changes within the general scope of this contract in the drawings designs or products or specifications or method of shipment or packing hereunder. If any such change causes an increase or decrease in the cost of, or the time required for the performances of any part of the work under this contract, whether changed or not, by any such order, an equitable adjustment shall be made in the contract price, delivery schedule or other contract provisions affected by the change, or in any or all of the foregoing. Seller shall submit a claim for such equitable adjustment within a reasonable time after receipt of notice of the change and the parties shall enter into negotiations promptly thereafter to arrive at such adjustment. Goods ordered by Buyer that have been specifically ordered and that are not held as normal stock items by the Seller, cannot be changed or cancelled.

## 8. WARRANTY

Seller warrants that all of its products sold hereunder will at the time of delivery be free from defects. Equipment sold by the Seller to the Buyer and that requires warranty repair must have return authorisation from the Seller. In no event will Seller be liable for any incidental or consequential damages. This warranty shall not apply to any products in other than their original condition or to any products the Seller determines have by Buyer or otherwise been subjected to operating and/or environmental conditions in excess of the maximum values thereof in the applicable specification or operating instructions or otherwise have been the subject of misuse, neglect, improper installation, repair, alteration or damage. Parts or product replaced shall be the property of Seller. Except as expressly stated above all other warranty conditions and representations express or implied, or otherwise are hereby excluded except as prescribed by law.

## 9. FORCE MAJEURE

Seller shall not be liable for any delay in or failure to perform any of its obligations hereunder, if the delay or failure is due to causes beyond Seller's control. Such causes may include, but are not necessarily restricted to, Acts of God, or of the public enemy, acts of the Buyer or its Agents, employees, sub-contractors or suppliers, acts of any national or local government either in a sovereign or proprietary capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, inability to obtain materials, acts of sub-contractors or suppliers and other similar or dissimilar causes beyond Seller's control. The delivery schedule shall be considered extended by period of time proportional to the time lost because of any delay in performance due to any cause beyond Seller's control. If Seller is unable to perform or complete performance of this contract wholly or in part due to causes beyond its control, Seller may cancel this contract or the outstanding part thereof without any further liability to Buyer. In no event shall Seller be liable for any incidental or consequential damage.

## 10. PATENT INFRINGEMENT

Seller shall defend any suit or proceedings brought against Buyer only insofar as such a suit is based on a claim that any product of Seller furnished under this order constitutes an infringement of any patent in such Buyer's country. If Buyer promptly notifies Seller in writing of the filing of such suit or proceedings, and if Buyer gives Seller authority, information and assistance for the defence or the handling of the matter, Seller shall pay all damages and costs awarded in a suit against Buyer. Buyer also agrees to notify Seller promptly of any charge or infringement or threat of any such patents, and to give Seller authority to handle same. If information and assistance are furnished by Buyer at Seller's written request it shall be at Seller's expense, but the responsibility for such expense shall only be that within Seller's written authorisation. The foregoing states Seller's entire liability for patent infringement by any products of Seller furnished under this order. Where this quotation or contract involves manufacture to drawings or specifications provided by the Buyer, Seller shall be held indemnified by Buyer against any claim or action, and in any cost arising therefrom, which might be brought by any third party in respect of any infringement of patent or design rights. Buyer hereby acknowledges that the copyright in all documents, designs and plans supplied by Seller belong to Seller and shall not, without the written consent of Seller, copy or use any such documents, designs or plans or any technical data obtained from Seller, except for the purpose of using the products and shall not disclose the same to any third party.

## 11. CANCELLATION

- (A) Should Seller fail to deliver the product within a reasonable period after the acknowledged delivery date the Buyer may give 90 days written notice of his intention to cancel the undelivered portion of the order. The Buyer shall pay to Seller the balance of the order price for all equipment delivered up to the end of the period of notice.
- (B) Should any purchase order or order instruction be cancelled for any other reason by the Buyer, then the Buyer shall pay to Seller
  - (i) The balance of the order price of product delivered
- (C) Items specifically ordered for the Buyer by the Seller and which are not normally held as stock items may not be cancelled by the Buyer.
- (D) Any notice of cancellation shall only be effective from the date received in writing by Seller from the Buyer or Buyer's authorised agent.

## 12. TRANSACTIONS

In the event this contract is translated into different languages, the English language text shall be considered the original text for purposes of interpretation or in the event of any conflict or ambiguity between different translations.

## 13. GOVERNING LAW

This contract and all disputes relating to it shall be governed and construed in all respects according to English law.

## 14. DEFAULT IN PAYMENT

Time of payment shall be of the essence and if payment shall not be made on the due date, interest may be charged from the date on monies then outstanding on a per diem basis at the rate of 5% over the base lending rate of Bank of Scotland Plc provided that no time or indulgence allowed by the Seller shall prejudice any contracted rights or remedies of the Seller.

## 15. ORDER

The Seller reserves the right (without prejudice to any other remedy) to cancel any uncompleted order or to suspend delivery in the event of any of the Buyer's commitment with the Seller not being met, or if the Seller is of the opinion that such commitments will not be met by the Buyer.

## 16. STORAGE

If by reason of instruction or lack of instruction from the Buyer delivery in accordance with the contract is delayed in excess of 14 days from the Buyer being notified that the products are ready for shipment, then payment in full will become due.

## 17. DISPUTES

If at any time a dispute or difference arises in connection with this order, it shall be mutually agreed upon between Buyer and Seller and, in the event that agreement cannot be reached, then the dispute shall be settled by an independent arbitrator, to be appointed by the President of the English Law Society, London whose decision shall be binding upon both parties.

## 18. CATALOGUES

Catalogues, price lists and other advertising matter are only an indication of the type of goods offered and no particulars therein shall be binding on the Seller, other than as data detailed in the order.

## 19. GENERAL

If any clause is deemed by Competent Authority to be invalid, contract shall remain in force and Buyer and Seller shall replace such clause with new following the intended sense.