

DEFINITIONS

'**Electrium**' shall mean Electrium Sales Limited

'**Goods**' shall mean any item of whatsoever nature (including any part or part of them) which is sold or supplied by Electrium including services.

'**Purchaser**' shall mean the person, firm or body corporate which buys or agrees to buy the Goods.

'**Conditions of Sale**' shall mean the clauses set out in these Conditions of Sale and any amendments thereto (as may be published by Electrium on its website from time to time or advised by letter) or which have been expressly agreed in writing by Electrium and signed by a duly authorised officer of Electrium.

1. THE CONTRACT

These Conditions of Sale shall apply to and form part of every contract of sale entered into by Electrium. All orders are accepted and executed on the understanding that the Purchaser is bound by these Conditions of Sale which shall govern the contract to the exclusion of any other terms and conditions subject to which any such order is accepted or purported to be accepted by the Purchaser.

No contract of sale shall come into being unless and until the Purchaser has accepted these Conditions of Sale either expressly or by implication.

No variation, addition or modification of these Conditions of Sale shall be binding on Electrium unless such variation, addition or modification is agreed to in writing under the signature of an authorised signatory of Electrium.

2. QUOTATIONS & ORDERS

Any quotation is given on the basis that no contract will come into existence until the Purchaser places an order pursuant thereto.

Any quotation is valid for a period of 30 days only from its date provided that Electrium has not previously withdrawn it.

3. PRICE

3.1 The price of Goods supplied is exclusive of VAT or any successor tax thereto unless otherwise agreed in writing.

3.2 The price for the Goods shall be (unless otherwise agreed by Electrium in writing) the list price of Electrium current at the date of despatch and in the case of an order for delivery by installments the price payable for each installment shall be Electrium's list price current at the date of despatch for each installment.

3.3 All prices are based on standard pack sizes and quantities. Orders will not be accepted for part or split packs.

3.4 Minimum order quantities will be applied to certain products at the discretion of Electrium. Orders not complying with set minimum order quantities for identified products will not be accepted.

3.5 Orders will not be accepted for a value below £200.

3.6 The price of Goods is based on the costs of materials, labour, sub-contracts, transport, taxes, duties and currency exchange rates ruling at the date of the quotation. Electrium reserves the right to amend the price to take account of any variations in these costs or the imposition of any new taxes or duties occurring from whatever cause before delivery of the Goods.

3.7 All price discrepancies must be notified to Electrium within 7 working days

4. PAYMENT

4.1 Unless otherwise agreed in writing the due date for payment shall be the last working day of the month following the month of despatch of Goods supplied by Electrium.

Payment made before the due date for payment shall be subject to a settlement discount of 2.5%. VAT is calculated on the discounted value of the invoice and is not subject to settlement discount.

4.2 Where the Purchaser has a rebate agreement with Electrium, Electrium reserves the right to deduct from any rebate payment due to the Purchaser any settlement discount incorrectly taken on payments made by the Purchaser.

4.3 Without prejudice to any other rights it may have Electrium is entitled to charge interest at 8% above the current Bank of England base rate or such other rate of interest as shall be determined under the late Payment of Commercial Debts (Interest) Act 1998 on any overdue payments.

Additionally and without prejudice to its rights Electrium shall be entitled to recover all direct expenses reasonably incurred by Electrium in collecting or attempting to collect amounts of the price outstanding.

Notwithstanding any Conditions of Sale allowing the Purchaser credit, payment shall become due and payable to Electrium immediately upon the termination of the contract. The Purchaser shall not be entitled to exercise any right of setoff or lien or any similar right or claim in connection with the Goods or the price payable for the Goods.

5. PAYMENT DISPUTES AND DEBIT NOTES

The Purchaser shall operate a debit note system and apply this in accordance with Electrium's Debit Note System Procedure. Debit notes shall include Electrium's relevant invoice details and be notified to Electrium the day they are raised and shall be considered as dated the day they are received by Electrium. Debit notes for disputes more than 5 days older than the Purchaser's payment terms will not be accepted.

Debit notes shall only be raised for the value of the Goods in dispute, not the whole invoice.

Settlement discount will not be allowed on monies incorrectly withheld by debit notes later rejected.

Debit notes may be raised for the following items only

Pricing errors, Delivery shortages, Faulty Goods, Damaged Goods, Incorrect Goods supplied

All requests to return Goods must be agreed to in writing with Electrium prior to a debit note being raised.

In no circumstances will consent be given by Electrium for the return of special or bespoke Goods.

Where the Purchaser has a rebate agreement with Electrium, Electrium reserves the right to deduct from any rebate payment due to the Purchaser, the value of any debit notes deducted from a remittance made by the Purchaser, but subsequently rejected by Electrium.

6. CREDIT FACILITIES

Any order shall be subject to Electrium being satisfied as to the Purchaser's credit references, and without prejudice to the generality of the foregoing, and notwithstanding Condition 4.1, Electrium may (in its absolute discretion), having informed the Purchaser that the Goods are ready for dispatch, refrain from delivering the Goods until such time as the Purchaser tenders the purchase price to Electrium together with any outstanding amounts which may be due from the Purchaser to Electrium on any account whatsoever. Electrium reserve the right (in its absolute discretion) to grant, refuse or discontinue any credit facilities or reduce or suspend any credit limit at any time and demand immediate payment of all monies outstanding.

7. CARRIAGE

7.1 Carriage to the Purchaser's premises in Great Britain and Northern Ireland is included in the price of standard Goods.

7.2 For non standard Goods and where the Purchaser requires delivery to site, the purchaser should contact Electrium to obtain details of carriage costs.

7.3 Any failure by the Purchaser to notify Electrium of their inability to accept a delivery that leads to Electrium having to re-deliver the Goods for a second time will incur a handling charge of 25% of the net value of the order.

7.4 Premium Service/Overnight deliveries will attract a delivery charge and be restricted in weight. Full details are available on enquiry.

7.5 In no circumstances will Electrium be liable for loss or damage of any kind whatsoever caused directly or indirectly by any delay in the delivery of Goods, nor unless such delay exceeds 180 days will any delay entitle the Purchaser to terminate or rescind the contract. Notwithstanding any other Conditions of Sale risk in the Goods shall pass to the Purchaser when the Goods are delivered to the Purchaser or its agent.

8. PACKING MATERIALS

Electrium reserves the right to alter the method of packing without reference to the Purchaser.

9. DELIVERY

The place of delivery for Goods shall be the Purchaser's premises or as otherwise agreed by Electrium in writing. The time of delivery will be as agreed between the parties or if no such agreement has been reached will be within a reasonable time and Electrium will be entitled to make delivery by installments.

10. DAMAGE OR LOSS IN TRANSIT

Electrium will not be liable in respect of any damage or discrepancy, shortage or loss in transit or any claim that the Goods delivered do not otherwise comply with the contract unless the Purchaser shall have informed the Electrium in writing, by email, or facsimile as follows:

- Within five working days of delivery in the event of any damage, discrepancy or shortage.
- Within five working days of delivery in the event that the Goods do not comply with the contract, and
- Within seven working days of receipt of Electrium's invoice in the event of non-delivery. Where the Goods are accepted from Electrium's carriers they shall be deemed to have been checked by the Purchaser and accepted unless the delivery receipt is signed and endorsed 'unexamined' and the packing and its contents are retained for later inspection.

11. STORAGE

If Electrium does not receive forwarding instructions sufficient to enable it to despatch the Goods within 14 days after notification that the Goods are ready to despatch the Purchaser shall thereupon take delivery or arrange storage. If the Purchaser does not take delivery or arrange storage, Electrium shall be entitled to invoice and be paid for the Goods as though the Goods had been duly delivered in accordance with these Conditions of Sale and Electrium may arrange storage either at Electrium's own premises or elsewhere on the Purchaser's behalf and all charges incurred by Electrium as a result of such delay including storage and insurance shall be payable by the Purchaser.

12. RETURN OF GOODS

In no circumstances may Goods supplied against an order be returned without the Purchaser having first applied for and obtained the written consent of Electrium. Products that are specialized or modified in any way from standard are not eligible for return or credit. Details of excluded products are available upon request. This includes but is not limited to, current catalogue products. Debit notes for return of Goods must not be raised or deducted without written consent to return has been obtained from Electrium. If unauthorized debit notes are raised and monies withheld from payment Electrium reserves the right to withdraw supply of goods until the debit note is withdrawn and the monies are paid in full. Electrium will not collect Goods from site. Goods returned by the Purchaser's transport or by a third party carrier without prior consent of the Electrium will not be credited. No credit will be due for Goods lost or disposed of without Electrium's written consent. All Goods returned must be in a re-saleable condition, with undamaged cartons and must be in complete box quantities/minimum order quantities.

13. INSPECTIONS AND TESTS

Electrium's Goods are carefully inspected and where practicable, submitted to its standard test at an Electrium site before despatch. If tests other than those specified or tests in the presence of the Purchaser or its representatives are required, these will be charged for. In the event of delay on the Purchaser's part in attending tests after the Purchaser has received 7 days notice that Electrium is ready to perform the tests, the test will proceed in the Purchaser's absence and the Purchaser hereby agrees to accept and pay for such tests as if they had been performed in the Purchaser's presence.

14. CANCELLATION

14.1 Goods ordered cannot be considered cancelled until written consent has been obtained from Electrium.

14.2 Cancellations of orders for standard product will attract a 10% handling charge.

14.3 Cancellation of orders for products that are specialized or modified in any way from standard will be subject to a handling charge. This charge will be at the discretion of Electrium and will be cover any resulting loss, damage or expense incurred by Electrium in connection with the supply or non-supply of the Goods including the cost of any material, used or intended to be used and the cost of labour and other overheads including a percentage in respect of profit.

14.4 Should Goods be refused at the Purchaser's premises claiming that cancellation has been approved, written evidence must be given of Electrium's consent, or the Goods will be charged for and no credit will be issued.

14.5 If Electrium is unable (whether temporarily or permanently) to procure any services or goods necessary to enable it to supply the Goods or if the supply of the Goods is prevented or hindered by reason of any cause beyond Electrium's reasonable control which, for the avoidance of doubt and without prejudice to the generality of the foregoing, shall include governmental action, war, riot, civil commotion, fire, flood, epidemic, labour disputes including labour disputes involving the work force or any part thereof of Electrium, restraints or delays affecting shipping or carriers, currency restrictions and Act of God, Electrium may cancel the contract by notice in writing to the Purchaser so far as it relates to Goods not then supplied or work not then done and such cancellation shall not give rise to any claims by the Purchaser provided that the Purchaser shall remain liable to pay for Goods delivered prior to the date of such cancellation.

15. TITLE OF GOODS

Until Electrium has been paid in full for the Goods comprised in this contract the Purchaser shall hold the Goods in a fiduciary capacity as bailee for Electrium and:

- (i) the title to, ownership of, and the property in, the Goods shall remain vested in Electrium (notwithstanding delivery of the same and parting of the risk therein to the Purchaser) until payment in full for all Goods comprised in this contract has been received by Electrium
- (ii) The Purchaser shall be in possession of the Goods as Electrium's bailee. If so required the Purchaser shall store the Goods for Electrium without charge to Electrium separate from any goods which are the property of the Purchaser and/or any third party and ensure that they are clearly marked and identified as belonging to Electrium.
- (iii) Electrium reserves the right to require the Purchaser to return the Goods and may recover and sell the same at any time. For that purpose Electrium's servants and agents together with all necessary and appropriate transport shall be entitled to unrestricted access to the Purchaser's premises and any other location where the Goods are situated to take possession of the Goods and, if necessary, dismantle the Goods from any article or articles to which they may have been attached and to remove the Goods from the Purchaser's premises.
- (iv) Prior to the property in the Goods passing to the Purchaser Electrium permits the Purchaser to deliver the Goods to a third party pursuant to a bona fide and arms-length agreement to re-sell the Goods and allows the Purchaser to convert or incorporate the Goods into or mix the Goods with other goods but such liberty will cease upon the termination of the contract.
- (v) Where Electrium is unable to determine whether any goods are Electrium's Goods the Purchaser shall be deemed to have sold all goods of the kind sold by Electrium to the Purchaser in the order in which they were invoiced to the Purchaser.
- 16. DESCRIPTIVE MATTER**
Descriptive matter, illustrations, dimensions and weights issued by Electrium in catalogues, price lists, advertising matter and forwarding specifications are to be regarded as being for guidance only and cannot be held as binding in any way. In pursuance of Electrium's policy of product improvement Electrium reserves the right to alter patterns and designs without prior notice.
- 17. WARRANTY AND LIABILITY**
- 17.1 Electrium will make good by replacement (or at its option by repair) defects which under proper use appear in the Goods within a period of twelve calendar months after the Goods have been despatched, and which arise solely from faulty design, materials or workmanship provided always that defective Goods have been returned to Electrium and Electrium was notified of the defect or suspected defect immediately the same became known to the Purchaser. The cost of carriage on such returned Goods and the cost of re-delivery of the repaired or new Goods to be borne by Electrium.
Save for the Electrium's control equipment which has been correctly repaired or modified by the use of standard parts supplied by Electrium for such purpose, Electrium excludes all liability in respect of any Goods which have been re-finished and dismantled or altered in any way or if the Goods were improperly installed or connected or if the Purchaser fails to observe or perform the requirements of any maintenance procedures relating to the Goods.
Any Goods replaced will belong to Electrium. Any repaired or replacement Goods will be guaranteed on these terms for the unexpired portion of the twelve month period. In addition, the obligations of Electrium under this Condition will not apply if the Purchaser is in breach of this or any other contract with Electrium.
Subject to this Condition, all conditions, warranties and representations, whether express or implied (by statute or otherwise) relating to the Goods are hereby excluded insofar as the same can be excluded without such exclusion being void or unenforceable. Electrium will be under no liability under the contract for any loss or damage of any kind whatsoever (other than death or personal injury resulting from Electrium's negligence) whether consequential or otherwise including but not limited to loss of profits and Electrium hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the Purchaser except that such exclusion will not apply to any implied condition that Electrium has or will have the right to sell the Goods when the property is to pass; or when the Purchaser deals as a consumer (as defined in section 12 of the Unfair Contract Terms Act 1977), any implied term relating to the conformity of the Goods with their description or sample or as to their quality or fitness for a particular purpose. In no circumstances will Electrium or its employees, agents or sub-contractors be liable for any loss or damage of any kind whatsoever (other than death or personal injury resulting from Electrium's negligence) whether consequential or otherwise caused directly or indirectly by any negligence or other tortious act or breach of statutory duty on the part of Electrium or on the part of any of its employees, agents or sub-contractors in connection with or arising out of the manufacture or supply of the Goods or in connection with any statement given or made (or advice not given or made) by or on behalf of Electrium.
- 17.2 The warranty given in this Condition is subject to the following provisos, namely:
- (i) that the defects shall not have arisen through fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse, alteration or repair of Goods by the Purchaser without Electrium's approval;
- (ii) that the Purchaser shall have followed all instructions issued by Electrium in relation to the Goods;
- (iii) that in the case of defects which would have been reasonably apparent to the Purchaser on reasonable examination of the Goods on delivery, the Purchaser shall notify Electrium of the defects in writing within 14 days of delivery;
- (iv) that in the case of any other defects, the Purchaser shall notify Electrium of the defects in writing within 7 days of the date when the defect becomes apparent;
- (v) that where in discharge of its obligations under the warranty given in this Condition Electrium agrees that the Purchaser may undertake any repair or remedial work on its behalf, the cost of such work shall be agreed in writing between the Purchaser and Electrium before the commencement of any such repair or remedial work.
- 17.3 Except in respect of death or personal injury caused by Electrium's negligence, Electrium shall not be liable whether in contract, tort or otherwise to the Purchaser by reason of any representation (unless fraudulent) or any implied warranty, condition or other term as to quality or fitness for purpose, or any duty at Common Law or under the express terms of the contract, and will bear no liability for any defect save as stated in this clause 17. Nor shall Electrium bear any liability for any indirect, special, economic or consequential loss or damage (whether for loss of profit, loss of use, loss of production, loss of contract or otherwise) costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Electrium, its employees or agents or otherwise) which arise out of or in connection with supply of the Goods or their use or resale by the Purchaser. Provided however that nothing in this Clause shall operate to exclude any warranty or condition implied by law as to the quality of the goods in the event that the goods when sold by the Purchaser or when sold by any person or persons to whom the Purchaser may sell the goods shall become the subject of a consumer sale as defined in the Sale of Goods Act 1979, or any statutory re-enactment or modification thereof except to the extent that any claim under such warranty or condition shall have arisen from any act or omission by the Purchaser or by any other person or persons selling the Goods by way of a consumer sale.
- 17.4 Notwithstanding anything in the Conditions of Sale or order, Electrium's liability to the Purchaser in respect of the order, in contract, tort (including negligence or breach of statutory duty) or howsoever otherwise arising, shall be limited to the price of the Goods specified in the order and will be limited to 12 months following the date of purchase.
- 18. PATENTS**
Electrium will indemnify the Purchaser against any claim of infringement of letters patent, registered design, trademark or copyright (existing at the date of the contract) arising from the use or sale of any article or materials supplied by Electrium to the Purchaser and against all costs and damages which the Purchaser may incur in any action for such infringement or for which the Purchaser may become liable in any such action provided always that this indemnity shall not apply to any infringement which arises in connection with any design or instruction issued or given by the Purchaser to Electrium or to the use of such article or material in a manner or for a purpose outside the UK or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by Electrium and provided also that this indemnity is conditional on the Purchaser making no admission in respect of such alleged infringement and giving Electrium the earliest possible notice in writing of any claim being made or action threatened or brought against the Purchaser and on the Purchaser permitting Electrium at Electrium's expense to conduct any litigation that may ensue and all negotiations for the settlement of a claim. The Purchaser warrants that any design or instruction issued or given by the Purchaser shall not be such as will cause Electrium to infringe any letters patent, registered design, trademark or copyright in the execution of the Purchaser's order and the Purchaser agrees to indemnify and keep Electrium indemnified against all liability in the event that such warrant is found to be untrue, misleading or breached.
- 19. ADVICE**
Advice which Electrium or its agents may give to the Purchaser shall be given in good faith but Electrium shall not be liable for any loss or damage arising directly or indirectly therefrom or attributable thereto unless contained in any written representation or statement issued directly by Electrium.
- 20. SAFETY**
The Purchaser shall ensure that any modifications whatsoever made to the Goods supplied hereunder complies with the requirements of any applicable Safety Regulations. Plugs supplied hereunder shall be so connected as to ensure that they are safe and in full compliance with any applicable Safety Regulations. The Purchaser shall ensure that any kits supplied hereunder are so assembled as to ensure that the assembled product is safe and complies with the requirements of any applicable Safety Regulations. Without prejudice to the above provisions, where Electrium provides the Purchaser with information about the use for which Goods are designed and have been tested and about any conditions to ensure that when put to that use they would be safe and without risk to health, the Purchaser shall use the Goods accordingly and comply with the said conditions. To be properly used the Goods shall be selected, installed, commissioned and maintained in accordance with good engineering practice and under the supervision of suitably qualified personnel.
- 21. STATUTORY AND OTHER REGULATIONS**
If the cost to Electrium of performing its obligations under any contract shall be increased by reason of making or amendment after the date of its quotation of any law or of any other order, regulation or bye-law having the force of law that shall affect the performance of Electrium's contractual obligations, the amount of such increase shall be added to from the contract price as the case may be.
- 22. EXPORT**
All contract terms set out above apply to overseas transactions (ie sales outside the United Kingdom), where appropriate, except the following: 1.2 Any quotation is given on the basis that no contract will come into existence until Electrium despatches an acknowledgement of order to the Purchaser. Any quotation is valid for a period of 30 days only from its date provided that Electrium has not previously withdrawn it.
- 22.2 Price
The price of Goods includes the cost of packing for shipment FCA (Free Carrier) to an agreed port or destination point.
Orders for Goods of a value of £350 or less will attract an additional handling charge of £50.
VAT will be charged on all invoices unless evidence of Export is provided in accordance with HMRC requirements.
- 22.3 Payment
First orders from overseas Purchasers must be accompanied by bank references and a Company letterhead to enable payment terms to be agreed.
Payment will be due in accordance with payment terms as agreed.
Electrium at their discretion may request a non refundable 10% deposit on any order.
- 22.4 Other Export
The Goods will be sold FCA, delivery will be at an agreed address of a freight forwarder or warehouse. Only at the request of the Purchaser and at the expense of the Purchaser will Electrium arrange shipping.
At the discretion of Electrium and in rare circumstances CIF, CFR or FOB arrangements can be made if requested by the Purchaser, at cost, and Electrium will, on receipt of Purchaser's indemnity, take all reasonable steps to recover from the Underwriters any loss or damage for which they may be liable. The Purchaser shall be solely responsible for complying with all legislation and regulations governing the importation of the Goods into the country of destination including import and export licences and the payment of duties thereon including but not limited to customs duties and VAT. The Purchaser shall indemnify Electrium against all costs claims and demands arising out of any breach by the Purchaser of this Agreement.
- 23. GENERAL**
- 23.1 The headings herein are inserted for convenience only and shall not affect the interpretation of the Conditions of Sale.
- 23.2 Should any clause contained in the Conditions of Sale be held to be invalid such invalidity will not affect the validity of the remaining clauses.
- 23.3 The formation, interpretation and operation of the contract will be subject to English Law and the Purchaser submits himself to the non-exclusive jurisdiction of the English Courts.
- 23.4 Electrium will be entitled to assign sub-contract or sub-let the contract or any part thereof.
- 23.5 Failure by Electrium to enforce any of the Condition of Sale will not be construed as a waiver of any of its rights hereunder.