

# **K. LACEY (ENGINEERS & DESIGNERS) LTD**

## **TERMS AND CONDITIONS OF SALE**

### **1 DEFINITIONS**

<b>Buyer</b>	Shall mean the individual firm company or other party from whom an order to supply the goods and/or services is received by the Seller.
<b>Seller</b>	Means K. LACEY (Engineers & Designers) Ltd (K. Lacey Wire and Cable) Unit 4 Brookside Avenue Trading Estate Rustington West Sussex BN16 3LF
<b>Conditions</b>	The terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.
<b>Goods</b>	The goods and/or services which the Buyer agrees to buy from the Seller.
<b>Price</b>	The price for the Goods, excluding VAT and any carriage, packaging and insurance costs.

### **2. CONDITIONS**

- 2.1 These Conditions shall form the basis of the contract between the Seller and the buyer in relation to the sale of Goods, to the exclusion of all other terms and conditions including the Buyer's standard conditions of purchase or any other conditions which the Buyer may purport to apply under any purchase order or confirmation of order or any other document.
- 2.2 A quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or amend the same at any time prior to the Sellers acceptance of a purchase order.
- 2.3 A quotation by the Seller is not binding unless and until it has been acknowledged in writing by the Seller or the goods are delivered by the Seller to the Buyer pursuant to the order.
- 2.4 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods from the Seller pursuant to these Conditions.
- 2.5 Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.7 These Conditions may not be varied except by the written agreement of a Director of K. Lacey (Engineers & Designers) Ltd.
- 2.8 These Conditions apply to all sales of Goods by the Seller and shall prevail over any inconsistent terms or conditions referred to in the Buyer's purchase orders or in correspondence elsewhere unless specifically agreed to in writing by the Seller and any conditions or stipulations to the contrary are hereby excluded or extinguished.
- 2.9 These Conditions supersede any other conditions previously issued.

### **3. GOODS**

The quantity and description of the Goods has been given by way of identification only and the use of such description shall not constitute a sale by description.

### **4. PRICE**

All quotations and estimates issued by the Seller are, unless otherwise stated, based on the current cost of production and are subject to amendment on or after acceptance to meet any rise or fall in such costs.

A quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or amend the same at any time prior to acceptance of the Buyer's purchase order.

The Price stated is for stipulated quantity only and does not hold for lesser quantities.

All goods are subject to +/- 10 percent quantity tolerance (chargeable).

The price is exclusive of VAT which shall be due at the rate in force on the date of the Sellers invoice and any other taxes or duty relating to the manufacture, transportation, export, import, sale or delivery of the Goods (without limitation) which directly effects the cost to the Seller of supplying the Goods.

Where carriage, packing, storage or any other charges are stated separately from the price they will be payable to the Buyer at the same time as if they formed part of the price and shall be treated as such.

## **5. PAYMENT AND INTEREST**

- 5.1 Payment for the Goods supplied and VAT shall be due within 30 days of the date of the Sellers invoice, unless otherwise agreed in writing by the Seller. Any extension of credit allowed to the Buyer may be changed or withdrawn by the Seller at any time. All credit accounts are subject to satisfactory credit checks by the Seller. Credit terms may be changed or withdrawn by the Seller at anytime.
- 5.2 We reserve the right to exercise our Statutory Right Of Interest under the Late Payment of Commercial Debts (interest) Act 1998 if we are not paid according to our credit terms.
- 5.3 Unless otherwise agreed in writing, in the case of export sales payment shall be made forthwith against the delivery of the Goods by irrevocable letter of credit, accepted bill of exchange or other bankers credit or payment unless specifically agreed by the Seller in writing.
- 5.4 Payment made by Credit Cards are subject to a 3.5% handling fee.
- 5.5 If payment of the invoice or any part thereof is not made by the due date, the Seller shall be entitled :
- (i) To require payment in advance of delivery of undelivered goods
  - (ii) To refuse to make delivery of any undelivered goods whether ordered under the same or any other purchase order.
- 5.6 The Buyer shall pay all accounts in full and not exercise any rights of set-off or counter claim against invoices submitted by the seller.

## **6 WARRANTY**

The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller in the confirmation of order.

- (i) Whilst every care is taken in providing suitable Goods and in giving particulars of capacity and performance the Seller gives no warranty as to their quality or fitness for any purpose whether or not that purpose is known to the Seller. All express or implied warranties or conditions statutory or otherwise are expressly excluded. The Seller in any circumstances will not be liable for any consequential loss or damage.
- (ii) Where the Seller gives advice or approval concerning the suitability of the Goods supplied such advice or approval is given subject to the condition that the Seller shall be under no liability of any kind in connection therewith.
- (iii) Any drawings or descriptions submitted by the Seller are approximate only and intended as a general guide and the Seller will not be liable for any error or omission therein or regard thereto.
- (iv) In the event of a defect in any Goods supplied by the Seller due to faulty material or workmanship the Seller will if satisfied that such defect is due to faulty material or workmanship and not to unsuitable storage conditions by the Buyer accept back Goods for return to the manufacturer for credit or replacement as agreed with them at that time.

## **7 DELIVERY**

- 7.1 Any delivery dates given by the Seller for delivery or performance are given as an estimate only and are to be regarded as A guide only. The Seller undertakes to use its reasonable endeavors to despatch the Goods on time, but does not guarantee to do so.
- 7.2 The Seller shall not be liable to the Buyer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of the Goods. If short delivery does take place, the Buyer undertakes not to reject the Goods but to accept the Goods delivered as part or complete performance of the contract.
- 7.2 If the Buyer fails to take delivery of the Goods on the agreed delivery date or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Seller shall be entitled to store and insure the Goods and to charge the Buyer the reasonable costs of doing so.

## **8 ACCEPTANCE OF THE GOODS**

- 8.1 The Buyer shall be deemed to have accepted the Goods 48 hours after delivery to the Buyer.
- 8.2 The Buyer shall carry out a thorough inspection of the Goods within 48 hours of delivery and shall give written notification to the Seller within 5 working days of delivery of the Goods of any defects which a reasonable examination would have revealed.
- 8.3 Where the Buyer has accepted, or has been deemed to have accepted the Goods, the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.

## **9 TITLE AND RISK**

- 9.1 Risk of the Goods shall pass to the Buyer from the time at which they cease to be in the possession of the Seller and in particular when they are delivered into the possession or custody of a carrier, forwarding agent, warehouseman or other agent for the purpose of transmission whether such person is in contract with or is instructed to accept delivery by either the Buyer or the Seller.
- 9.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Seller and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.
- 9.3 Until title passes the Buyer shall hold the Goods as bailee for the Seller and shall store or mark them so that they can at all times be identified as the property of the Seller. Where any Goods delivered under the contract have been sold by the Buyer the Buyer shall so sell as agent for the Seller and shall be trustee for the Seller of the proceeds of the sale thereof until such time as the Seller shall have been paid in full for such Goods.
- 9.4 The Seller may at any time before title passes and without any liability to the Buyer :
- 9.4.1 Repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and
- 9.4.2 For that purpose (or determining what if any Goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.
- 9.5 The Seller may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Buyer.

## **10 CANCELLATION AND VARIATION OF ORDERS**

Orders for Goods may not be cancelled or suspended without the Seller's written consent and on such terms as the Seller may reasonably require. Any cancellation or suspension if accepted shall be upon the express term that the Seller shall be indemnified against any loss incurred wholly or in part by such cancellation or suspension.

## **11 REJECTION AND RETURN OF GOODS**

Goods incorrectly ordered or found to be surplus to the Buyer's requirements will be taken back by the Seller only if they are in an unused condition and purchased within the preceding thirty working days. Non stock Goods / special order Goods may not be returned or cancelled. A fifteen percent handling charge will be levied. Carriage costs are not refundable against non-faulty Goods. Faulty Goods or Goods supplied incorrectly by the Seller will not incur any handling charges. Notice in writing must be given by the Buyer and accepted by the Seller before the return of Goods take place.

## **12 PATENTS**

Where the Seller supplies Goods to the design of the Buyer the Buyer warrants that no design, sketch or other matters submitted to the Seller for inclusion in the work contains anything that is an infringement of any copyright or proprietary right and the Buyer will indemnify the seller against all loss, costs, damages or injury resulting from a breach of this warranty.

## **13 FORCE MAJEURE**

If delivery is delayed by fire, accidents, adverse weather conditions, defective materials, delays in receipt of raw materials or bought-in Goods or components or any other cause beyond the reasonable control of the Seller or by strikes, lockouts other industrial action, or any other cause whatsoever beyond the control of the Seller, a reasonable extension of time for delivery shall be granted. No liability in any way can be accepted by the Seller for late delivery in any of these circumstances.

## **14 INDEMNITY**

The Buyer shall indemnify the Seller in respect of all damage or injury occurring to any personal property and against any actions and expenses in that connection for which the Seller may become liable in respect of the Goods sold if the damage or injury is caused by negligence of the Buyer or his servants or his agents.

## **15 LAW**

Quotations and contracts shall be construed according to and governed by English Law. In the event of any dispute arising that cannot be agreed and resolved between the parties concerned the Buyer and Seller jointly resolve to submit to the exclusive jurisdiction of the English Courts.