

European Electronique Limited - General Terms & Conditions of Trading

Definitions

In these Terms & Conditions, the following expressions shall have the following meanings:

The Company means European Electronique Limited and, where the context permits, its assigns and any sub-contractor for the said Company.

Goods means the articles or things to be supplied by the Company to the Client under the terms of the Contract.

Services means the services to be provided by the Company to the Client under the terms of the Contract.

The Client means the person, organisation, institution, or company with whom the contract is made by the Company, whether directly or indirectly, through an agent or factor who is acting for or instructed by the Client or whose actions are ratified by such person, firm, or company.

Contract means the contract between the Company and the Client under which the goods or services are to be supplied by the Company to the Client.

Company's Premises means the premises mentioned in the Contract or if not so mentioned means the Company's premises at Forward House, Oakfields Industrial Estate, Eynsham, Oxfordshire, OX29 4TT.

Business Day means 9.00 a.m. to 17.30 p.m. Monday to Friday excluding statutory holidays.

Data Controller has the meaning set out in the Data Protection Legislation

Personal Data has the meaning given to it in the applicable Data Protection Legislation and relates only to personal data, or any part of such personal data, in respect of which the Client is the Data Controller and in relation to which the Company is providing Services under the Contract.

1. General

- 1.1. These Conditions shall be deemed to be incorporated in all contracts of the Company and, in the case of any inconsistency with any order, letter or form of contract sent by the Client to the Company or any other communication between the Client and the Company whatever may be their respective dates, the provision of these Conditions shall prevail unless expressly varied in writing and signed by a director on behalf of the Company. Any concession made or latitude allowed by the Company to the Client shall not affect the rights of the Company under the contract. If in any particular case any of these Conditions shall be held to be invalid or shall not apply to the contract, the other Conditions shall continue in full force and effect.
- 1.2. Unless the Company is providing Consultancy services for which a fee is payable, the Company's employees have no authority to make any representations concerning the Goods or Services. In entering into the Contract, the Client acknowledges that it does not rely on such representations.
- 1.3. Any advice or recommendation for the Goods given by the Company or its employees to the Client not confirmed in writing will be deemed to be entirely at the Client's own risk and the Company shall not be liable for any such advice or recommendation.
- 1.4. Any quotation for the Goods given by the Company is valid for the period specified in the quotation, if no such period is specified the quotation will be valid for a period of 5 Business Days from the date of issue.

2. Orders

- 2.1. Notwithstanding that the Company may have given a detailed quotation, no order shall be binding on the Company unless and until it has been accepted by a director of the Company.
- 2.2. The Company's advertising literature or material are intended only as indication as to price and range of goods offered and no prices, descriptions or other particulars contained therein shall be binding on the Company.

3. Prices

- 3.1. All prices for Goods and/or Services are quoted subject to acceptance within the period specified in either the quotation and/or the contract. The Company reserves the right to amend its quoted price at any time prior to dispatch upon providing notice to the Client of any increase resulting from factors outside the control of the Company.

- 3.2. The prices for the Goods shall be those ruling at the date of dispatch and the Company reserves the right to amend its quoted prices at any time prior to the day of dispatch.
- 3.3. The prices for the Goods include the cost of normal packaging but exclude delivery, transit insurance or installation charges (where applicable).
- 3.4. The prices for the Services shall be based on the Company's Working Day rates.
- 3.5. All prices are exclusive of Value Added Tax, and this will be charged at the appropriate rate.

4. Additional Costs

- 4.1. The Client agrees to pay for any loss or extra cost incurred by the Company through the Clients instructions or lack of instructions or through failure or delay in taking delivery or through any act or default on the part of the Client its servants or employees.

5. Terms of Payment

- 5.1. Unless agreed in writing by the Company payment shall be made in full, without deduction or set off, immediately upon receipt of Company's invoice or if credit account has been approved by the Company within 30 days of the date of the Company's invoice.
- 5.2. Notwithstanding clause 5.1, the Company reserves the right to withdraw any credit facilities afforded to the Client at any time, without notice.
- 5.3. When the Company issues a credit note against any of the invoices the payment terms of the corresponding invoice remain as 30 days from the invoice date.
- 5.4. If the Goods are delivered in instalments the Company shall be entitled to invoice each instalment as and when delivery thereof has been made and payment shall be due in accordance with Clause 5.1.
- 5.5. Payment terms for Services provided by the Company will be subject to a separate contract.
- 5.6. Payment shall be deemed to be made when funds have been credited to the Company's bank account cleared by the Client.
- 5.7. Where payment is overdue the Company may (without prejudice to any of its other rights) recover and resell the goods and the Client hereby irrevocably licenses the Company or any of its agents to enter upon any premises where the goods are stored or are reasonably thought to be stored for the purpose of such recovery and/or resale. Additionally, the Company reserves the right to charge an appropriate amount (up to a maximum of the original invoiced amount), for any such goods that are removed from the Clients premises due to non-payment, which are subsequently found not to be in a fully re-saleable and as new condition. This includes any packaging and associated documentation originally provided with the goods.
- 5.8. All invoices shall become immediately payable upon the commencement of any act or proceedings in which the solvency of the Client is involved.
- 5.9. Any extension or credit allowed to the Client may be changed or withdrawn at any time.
- 5.10. The time of payment shall be of essence of the contract.
- 5.11. The Company is entitled to charge interest at 2.5% above the Current Base Rate of Barclays Bank plc. on overdue payments to run from the due date for payment thereof until receipt by the Company of the full amount whether before or after judgement.

6. Services

- 6.1. Any Services provided by the Company will be subject to a separate contract which will outline, the Scope of Work, Service Level Agreement and Payment Terms.

7. Delivery of Goods and Services

- 7.1. All times or dates given for delivery of the Goods and Services are given in good faith but without any responsibility on the part of the Company. Time of delivery shall not be of the essence of the Contract nor shall the Company be under any liability for any delay beyond the Company's control.
- 7.2. No liability for non-delivery, loss of or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Contract will attach to the Company unless claims to that effect are notified in writing by the Client to the Company and in the case of claims for non-delivery, loss of or damage to the Goods with a copy to the carrier if the Company's own vehicle has not been used to deliver the Goods.

8. Damaged Goods

- 8.1. The Company shall have no liability for any claim in respect of any damage/defect to the Goods, which would be apparent on inspection on arrival, and which were accepted without noting the said damage:
 - i. Except for Clause 3, the Client shall inform the Company within 48 hours of delivery for loss, damage, or non-compliance with the Contract, and
 - ii. Within 3 days of the date of the invoice for non-delivery.
- 8.2. In the event of a valid claim for non-delivery, loss, damage, or non-compliance with the Contract the Company undertakes at its option either to re-supply or replace the Goods at its expense but shall not be under any further or other liability to any person in connection with such non-delivery, loss, damage or non-compliance.
- 8.3. If the Client shall fail to give notice in accordance with the Conditions herein the Goods shall be deemed to be in all respects in accordance with the Contract and the Client shall be bound to accept and pay for the same accordingly.
- 8.4. The Company shall not be liable for imperfect work caused by any inaccuracies on any written or verbal specifications supplied by the Customer.

9. Acceptance

- 9.1. All invoice charges shall be deemed to be accepted by the customer unless queried in writing within 14 days of the invoice date.
- 9.2. All goods shall be deemed to be accepted by the customer unless written notice of rejection is received within 5 days of delivery date.

10. Return of Goods

- 10.1. Goods supplied cannot be returned without the Company's prior written authorisation and shall only be accepted within 7 days of the invoice date. Duly authorised returns shall be sent to the Company's Premises at the Client expense.
- 10.2. The Company reserve the right to refuse to accept such returns if they are not returned in their original packaging in a clean, unused, undamaged, and re-saleable condition.
- 10.3. All goods must be received within 14 days from the date of return authorisation.

11. Passing of Title and Risk

- 11.1. Risk in the goods shall pass to the Client on delivery and the Client shall be solely responsible for the custody and maintenance of the Goods.
- 11.2. Title to the Goods shall not pass to the Client until the purchase price of the Goods has been paid in full, and payment is made in full to the Company of any sum which is at the date of the order or may thereafter become due or owing from the Client to the Company.
- 11.3. Until title to the Goods has passed to the Client, the Client shall insure the Goods with a reputable insurer from the date of delivery against all risks for an amount at least equal to the Price noting the Company's interest on the policy.
- 11.4. Until title to the Goods has passed to the Client, the Client will hold the Goods in a fiduciary capacity and will store the Goods separately from any other goods and in a manner which makes them readily identifiable as the Goods of the Company.
- 11.5. In the event of the Client purporting to sell the Goods to a third party before payment has been made to the Company any such proceeds of sale shall be received and held by the Client as the Company's agent. The Client acknowledges that such proceeds are held in a fiduciary capacity and that the Client will account strictly to the Company the proceeds so held.
- 11.6. The Company will have the right to maintain an action against the Client for the price of the Goods notwithstanding that the title to the Goods has not passed.
- 11.7. If the Client defaults in accepting delivery of or paying for the Goods, the Company reserves the right to re-sell the Goods or any of them to a third party without giving notice to the Client of the Company's intention to resell.

12. Conditions and Warranties

- 12.1. The Contract shall not constitute a sale by description or sample.
- 12.2. Any Conditions or Warranties (whether express or implied by statute, common law or arising from conduct or a previous course of dealings or trade custom or usage) as to the Goods or their fitness for any particular purpose (even if that purpose is made known expressly or by implication to the Company) or as to the correspondence of the Goods with any descriptions or samples are hereby expressly negated.

13. Limited Warranty

- 13.1. The terms of purchase of the Goods will be subject only to warranty provided by the original equipment manufacturer ("OEM"), unless the Company expressly agrees to provide such warranty with an agreed fee, and the Client shall be solely responsible for ensuring that it fully understands and is aware of such warranty terms.
- 13.2. The Client shall be responsible for contacting the OEM directly for instructions on how to claim under the OEM's warranty process.

14. Liability

- 14.1. Where Goods supplied prove to be defective and the Customer notifies the Company within 5 days of the Customer taking receipt of the Goods the Company will replace such Goods free of charge, providing the defective Goods are returned to the Company with the Company's valid Return Authorisation Number. Any defective Goods notified to the Company after the aforementioned 5-day period, will be subject to the conditions of the manufacturer's warranty, and it will therefore be the Customers responsibility to make a claim against this warranty directly with the manufacturer.
- 14.2. The Company's obligation contained in Condition 1 are subject to:
 - i. The Goods have been used in an appropriate manner and/or as prescribed in the operating instruction.
 - ii. The Goods have not been modified or repaired otherwise than by the Company or otherwise interfered with.
 - iii. No liability will be accepted by the Company for any goods which become defective as a result of any process or negligence of storage procedures after the goods have left the Company's premises.
 - iv. The Company will not be responsible for any personal injuries, third party claims of whatsoever nature arising from defective goods apart from claims in respect of death or personal injury resulting from negligence of the Company.

15. Consequential Loss

The Company shall not be liable under any circumstances for any loss of profit, loss of contract or other consequential loss or damage suffered or incurred by the Customer or any other person or Company.

16. Cancellation

- 16.1. The Contract for supply of Goods and Services may not be cancelled except by agreement in writing of both parties and upon the payment to the Company of such amounts as may be necessary to indemnify the Company against all loss resulting from the said cancellation.
- 16.2. The contract for Services, Support or Maintenance may only be terminated in accordance with the conditions stipulated in the Service, Support or Maintenance agreement.
- 16.3. The Company has the right to cancel or suspend the contract if:
 - i. The Client fails to make payment when due in accordance with these conditions.
 - ii. an administrator, receiver or administrative receiver is, or is likely to be, appointed in relation to the Client or any of its assets.
 - iii. the Client commits, or is a party to, dishonest or fraudulent conduct in relation to the Contract.

17. Confidentiality

No party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement. For the avoidance of doubt Confidential information means any information that relates to, but is not limited to, the business, affairs, developments, know-how, including Intellectual Property Rights, together with information clearly relating to the contract between the Company and the Client, including designs, drawings, proposals, price lists etc.

18. Intellectual Property Rights

All written information, drawings, diagrams, and software copies of same prepared by the Company in relation to the provision of the Goods and Services and the copyright therein shall remain the property of the Company and shall be returned by the Client on demand. All such information shall be treated as confidential and shall not be copied or reproduced or disclosed to any third party without the prior written consent of the Company.

19. Force Majeure

The Company shall not be liable for any loss or damage and be entitled to cancel or rescind any Contract if the performance of the Company's obligations under the Contract is in any way adversely affected by any cause whatsoever beyond the Company's control including (but not limited to) the delays or default of supplies or the defaults of any sub-contractor, act of God, explosion, fire or accident, war, threat of war, sabotage, insurrection, civil disturbance, requisition, Acts, restrictions, regulations, bye-laws, prohibitions or measures of any Government or Parliamentary or Local Authority, strike, lock-out, trade disputes, flood, accident to plant or machinery, shortage of materials or labour, import or export regulations or embargoes. If due to any such event the Company has insufficient stocks to satisfy an Order the Company may apportion available stocks between its customers at its sole discretion.

20. Data Protection

Services provided by the Company in accordance with these Conditions may involve the Company processing Personal Data of which the Client is the Data Controller. The parties acknowledge and agree that, in respect of such processing, for the purposes of the Data Protection Legislation, the Client is the Data Controller, and the Company is the Data Processor. Client warrants that:

- i. it has all necessary and appropriate consents and notices in place to enable the lawful transfer of any Personal Data to the Company for the duration and purposes of any Contract;
- ii. all instructions given to the Company in respect of Personal Data shall at all times be in accordance with Data Protection Laws; and
- iii. The Company shall process the Personal Data only in accordance with Client's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by Client.

The Company shall take reasonable steps to ensure the reliability of all its employees who have access to the Personal Data.

Each party warrants to the other that it will process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards, and other similar instruments.

21. Law

These conditions will be construed as an English contract and in conformity with English law. Any notice given under this contract must be in writing.