

Hunter Cable Assembly

TERMS AND CONDITIONS OF SALE

1. Interpretation

1.1 In these Conditions:

“Buyer”	means the person who accepts a quotation of the Seller for the sale of the Goods and Services or whose order for the Goods and Services is accepted by the Seller;
“Conditions”	means the standard terms and conditions of sale and supply set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and the Seller;
“Contract”	means the contract for the purchase and sale of the Goods and Services;
“Goods”	means the goods (including any instalment of the Goods or any parts for them) which the Seller is to supply in accordance with these Conditions;
“Seller”	means Hunter Cable Assembly Ltd (registered in England under number 01295149);
“Services”	means any work to be undertaken by the Seller for the Buyer;
“Writing”	includes telex, cable, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Basis of the sale

2.1 All Contracts for Goods and Services between the Seller and the Buyer shall be subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations nor give any advice concerning the Goods and Services unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed. The Buyer further acknowledges that there are no representations outside these Conditions which have induced him to enter into the Contract.

3. Orders and specifications

3.1 The Seller reserves the right to refuse at any time an order for Goods or any part thereof on grounds of non-availability, and the Seller shall incur no liability therefor.

3.2 The Buyer shall be solely responsible for ensuring the accuracy of the terms of any order, and for giving the Seller any information relating to the Goods and Services within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 Weights, dimensions, illustrations and descriptions of the Goods given by the Seller for any purpose are stated in good faith but are approximate only and shall not form part of the contract nor bind the Seller in any way. It is for the Buyer to satisfy itself of the suitability of the Goods for its own purpose. Accordingly, the Seller gives no warranty as to the fitness of the Goods for any particular purpose and any implied warranty or condition (statutory or otherwise) is excluded except in so far as such exclusion is prevented by law.

3.4 The Seller's liability in respect of the quality or fitness of purpose of the Goods hereunder, shall not extend to the Buyer's loss of profits, increased cost of working or any other consequential financial loss.

3.5 Orders sent by the Buyer in confirmation of telephone instructions should be clearly identifiable as such and any expense incurred by the Seller as a result of the duplication of an order shall be chargeable to the Buyer.

3.6 The Seller reserves the right to vary the specification of any item, withdraw, modify or amend any item without prior notice. Any such variation, withdrawal, modification or amendment shall not affect any order that has already been accepted by the Seller, save that the Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory requirements.

4. Cancellation of Orders

The Buyer shall not cancel an order which has been accepted without the agreement in Writing of an authorised representative of the Seller and each delivery of Goods and Services will be considered as a separate order for the purposes of this clause 4.

5. Price of the Goods and Services

- 5.1 The price of the Goods and Services shall be the Seller's quoted price. Quoted prices include the cost of normal packaging but exclude, delivery, transit insurance, (which are charged at extra cost), and VAT. Any work carried out additional to that specified in the relevant quotation or order shall be charged..
- 5.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods and Services to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

6. Terms of payment

- 6.1 The Buyer shall pay the price and any taxes due thereon of the Goods and Services at the time specified by the Seller or, if no time is specified, at the time of placing an order with the Seller, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.
- 6.2 Any payment on account will be allocated against the Buyer's longest outstanding invoices first, as determined solely by the Seller.
- 6.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 6.3.1 cancel the contract, suspend any further deliveries to the Buyer until such time as the Buyer has paid in full including any interest due under clause 6.3.4.;
- 6.3.2 recover any Goods already delivered to the Buyer for which payment has not been received and in accordance with the provisions of clause 8.
- 6.3.3 appropriate any payment made by the Buyer to such of the Goods or Services (or the Goods or Services supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 6.3.4 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 4% per cent per annum above Lloyds Bank Plc's base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

7. Delivery

- 7.1 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing.
- 7.2 The Seller reserves the right to make instalment deliveries and where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 7.3 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 7.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage or sell the Goods.

8. Risk and property

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 8.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

- 8.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price including any taxes due of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 8.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall only be entitled to resell or use the Goods in the ordinary course of its business with the prior authority in Writing of the Seller, but then only on such terms that the Buyer shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 8.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 8.5 The Buyer 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 Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
9. Warranties and liability
- 9.1 The Seller's liability (in contract, tort (including negligence), misrepresentation or otherwise) in respect of defects in the Goods shall be limited to the replacement or repair of faulty items or material, or the issue of credit notes in respect thereof, or the granting of a refund or other such compensatory measures as the Company at its discretion considers appropriate in the circumstances, and shall be conditional upon the Buyer complying with the conditions of the warranty (where applicable). Such measures shall relate only to the actual faulty items or their value.
- 9.2 Any warranty given by the Seller is subject to the condition that the Seller shall be under no liability in respect of any defect in the Goods:
- 9.2.1 arising from any drawing, design or specification supplied by the Buyer;
- 9.2.2 arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), failure to maintain or service the Goods in accordance with any manufacturer's recommendations, misuse or alteration or repair of the Goods without the Seller's approval;
- 9.2.3 if the total price for the Goods has not been paid by the due date for payment;
- 9.2.4 if the manufacturer's or Seller's seals, barcodes and/or serial numbers have been removed.
- 9.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.4 Where the Goods are sold under a consumer transaction (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affected by these Conditions.
- 9.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or Services shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods or Services had been delivered in accordance with the Contract.
- 9.6 Where any valid claim is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to repair or replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 9.7 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its

employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or Services or their use or resale by the Buyer, except as expressly provided in these Conditions.

- 9.8 The Seller shall not be liable to the Buyer by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods and Services, if the delay or failure was due to any cause beyond the Seller's reasonable control including, without limitation, act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority strikes, lock-outs or other industrial actions or trade disputes ,difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery.
- 9.9 The Buyer shall indemnify the Seller against the consequences of all claims made against the Seller by any third party in respect of defective Goods supplied by the Seller to the Buyer insofar as any such claim exceeds that which the Buyer could have successfully claimed against the Seller.
- 9.10 The maximum period of any warranty is 12 months from delivery of the goods to the customer. Any notice of warranty claim must be highlighted to the Seller within four weeks of the Buyer becoming aware of the matter.
- 9.11 The Seller shall not in any circumstances be under any liability to the Buyer in respect of any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused).

10. Intellectual Property and Confidentiality

All drawings, descriptions and all other information, including process information, submitted by the Seller to the Buyer shall remain the property of the Seller together with any copyright therein and shall not be disclosed to a third party without the Seller's permission in Writing.

11. Insolvency of Buyer

If the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer or the Buyer ceases, or threatens to cease, to carry on business or then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods or Services have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. Force Majeure

The Company reserves the right to cancel, vary or suspend the operation of a contract of sale if events occur which are in the nature of force majeure including (without prejudice to the generality of the foregoing) fire, floods, storm, explosion, epidemic, plant breakdown, strikes, lockouts, riot, hostilities, governmental actions, war or national emergency, acts of terrorism, protests, non-availability of materials or supplies or any other event outside the reasonable control of the Company; and the Company shall not be held liable for any breach of contract resulting from such an event.

13. General

- 13.1 Any notice to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may have been notified pursuant to this provision to the party giving the notice.
- 13.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 13.4 The Contract is made between the Seller and the Buyer as principals and is not assignable by the Buyer without the express written consent of the Seller.
- 13.5 The Contract shall in all respects be subject to the non-exclusive jurisdiction of the English courts.

On behalf of the Buyer, I understand and accept as reasonable the Conditions set out above and acknowledge that title to the Goods only passes when full payment has been made for them and **I warrant that I am duly authorised to sign this acknowledgement on behalf of the Buyer:**
Signed:..... Dated:.....

Name:.....

Position:.....