

STRIX Ltd: Sales Terms and Conditions, April 1999¹

1. DEFINITIONS

The following terms shall have the following meanings:-

'The Seller' means STRIX Limited

'The Buyer' means the company firm person or body of persons from whom the order is received

'The Invoice Date' means the date appearing on the invoice under which the Goods are sold to the Buyer.

'The Order' means the order placed by the Buyer with the Seller for the supply of Goods.

'The Conditions' means these the Seller's terms and conditions of trading.

2. ACCEPTANCE

All acceptances contracts order and quotations are subject to the Conditions alone which supersede any arrangements agreements statements representations or negotiations made between the Buyer and the Seller and no variation of the Conditions will be valid unless agreed upon in writing by a Director of the Seller.

3. CONDITIONS

3.1 Any quotation given by the Seller which in an invitation to treat is based on prices current at the time it is given and shall remain open for a period of 30 days unless previously withdrawn by the Seller.

3.2 All prices quoted are exclusive of Value Added Tax packing packaging and shipping.

3.3 The Seller reserves the right at any time prior to delivery of the Goods to adjust the price to take account of any increase in the costs to it of materials labour or services or any exchange rate fluctuations.

4. RISK

4.1 Risk in the Goods shall pass to the Buyer at the time of actual delivery to the Buyer's premises.

4.2 Risk in the Goods shall pass to the Buyer in accordance with the relevant Incoterm applicable to the supply. Such Incoterm shall be the "Ex Works" unless expressly agreed otherwise in writing by the parties.

5. PASSING OF TITLE

5.1 Notwithstanding the passing of risk in accordance with clause 4.1 title in the Goods shall not pass to the Buyer until payment in full has been received by the Seller for all Goods and for all other amounts outstanding from the Buyer to the Seller on any account whatsoever.

5.2 The Buyer is hereby licensed by the Seller to use or to agree to sell the Goods subject to the express condition that:-

1. any sale by the Buyer of the Goods whether or not incorporated into other goods shall be made as agent on behalf of the Seller;
2. the percentage of the proceeds of sale made by the Buyer pursuant to Clause 5.2.1 which relates to the invoice price of the Goods sold shall be paid into a separate bank account and held in trust for the Seller and shall not be mixed with other monies or paid into an overdrawn bank account and shall at all times be identified as the Seller's monies.

5.3 Until title to the Goods passes:-

1. The Buyer will hold the Goods as fiduciary agent and bailee for the Seller
- 2 Subject to clause 5.2 the Goods shall be kept separate and distinct from all other property of the Buyer or of any third party and shall be stored in such a way as to be clearly identifiable as belonging to the Seller;
3. The Seller may at any time revoke the power of sale and use contained in clause 5.2 by notice to the Buyer if the Buyer is in default for longer than 14 days in the payment of any sum whatsoever due to the Seller in respect of any Goods at the time by it to the Buyer or if the Seller has bona fide doubts as to the solvency of the Buyer;
4. The Buyer's power of sale and use contained in clause 5.2 shall automatically cease if the Buyer has a petition presented for its winding-up or passes a resolution for voluntary winding up other than for the purposes of a bona fide amalgamation or reconstruction or compounds with its creditors or has a Receiver appointed of all or any part of its assets or becomes bankrupt or insolvent or enters into any arrangement with creditors or suffers from any similar action in consequence of debts or carries out or undergoes any analogous act or proceedings under foreign law.
5. Upon determination of the Buyer's power of sale and use pursuant to clauses 5.3.3 or 5.3.4 the Buyer's shall place any unsold Goods in its possession or under its control at the disposal of the Seller and the Buyer hereby authorises the Seller using such force as may be reasonably necessary to enter upon the premises of the Buyer for the purpose of removing such Goods for re-sale or otherwise.

6. LIABILITY

6.1 Nothing in clause 6 shall be deemed to exclude or restrict the Seller's liability for death or personal injury resulting from negligence.

6.2 Each of the sub-classes in clause 6 is to be treated as separate and independent.

6.3 The Seller is willing to undertake liability additional to that provided by this clause in exchange for a higher price.

6.4 Subject to clause 6.3, the Seller shall not be liable to Buyer in connection with the Conditions or Order (whether this is arising from breach of contract, tort, (including negligence) or otherwise), for: loss of profits; loss of revenue, sales, or turnover; loss of or damage to reputation; loss of production; loss of anticipated savings; loss of goodwill or business opportunities; loss of customers, loss under or in relation to any other contract; or any special, consequential or indirect loss or damage, whatsoever (howsoever caused).

6.5 The Seller's total liability for any one claim or for the total of all claims arising from any one act or default of the Seller (whether arising from the Seller's negligence or otherwise) shall not exceed (£500,000) or the contract price whichever is the greater.

7. SPECIAL ORDERS

Orders for products to be manufactured by the Buyer's unique requirements and/or specifications cannot be amended without prior agreement.

8. DESPATCH DATES

Although the Seller will use all reasonable efforts to meet despatch forecasts such forecasts are estimates are estimates only. The Seller shall not be liable in any circumstances for loss whether direct or consequential arising from delay in despatch.

9. SHORTAGE OR DAMAGE

9.1 Notices of shortages or damages to goods must be sent to the Seller and the Carrier in writing within three days from receipt of the advice note and/or good.

9.2 Wherever the Seller sells supplies Goods which are manufactured by a third party, specifically, but not exclusively, rubber seals and gaskets, screws and washers, the quantity supplied against the invoice price relating to the Goods manufactured by a third party will be allowed to vary by +/- 2% of the invoiced quantity.

10. WITHHOLDING DELIVERY

The Seller shall be entitled to withhold delivery of any goods if upon the invoicing thereof, the Buyer's credit limit and credit terms would thereby be exceeded. In determining the Buyer's credit limit for such purpose the Seller shall be entitled to take into account the aggregate invoice value of all invoices to the Buyer which are then outstanding, including unpaid accounts.

11. TRANSPORT

Where transport is for the account of the Seller delivery will be effected by the goods transport service normally used by the Seller. In the event that the goods are lost or delayed in transit the Seller shall not be liable for any consequential expense arising from the loss or delay.

12. PRICE VARIATION

In view of the uncertainty of the future cost of manufacture the Seller is compelled to stipulate that notwithstanding any prices quoted by the Seller, stated in the Buyer's order, or stated on the Seller's order acknowledgement form, goods will be invoiced at the Seller's price current at the date of dispatch.

Any increase in the rate of carriage during the continuance of the Contract to be payable by the Buyer.

Quantity orders are accepted on the condition that they are called off within 12 months of the date of acknowledgement. If they are not called off, the Seller reserves the right to change retrospectively the difference between the bulk price and the higher price for quantity actually called off.

13. PAYMENT TERMS

Net 28 days from the date of invoice without any deductions. The Seller reserves the right to change interest monthly on overdue accounts at a rate of 3% per annum above published United Kingdom base rate.

14. CUSTOMER'S MANUFACTURING EQUIPMENT

The Seller's liability for any damage caused to the Buyer's manufacturing equipment held on the Seller's premises shall be restricted to its replacement by the Seller free of charge.

15. WARRANTY

Any goods the subject of this agreement failing due to faulty workmanship and/or defective material, fair wear and tear excepted, will be replaced or repaired free of charge by the Seller providing such failure providing such failure occurs within a period of one year from the date of despatch. The guarantee is automatically invalidated if the goods are dismantled without the Seller's prior permission. The Seller cannot be responsible for goods returned without its consent

having first been obtained in writing, whether defective or not. The guarantee is limited to replacement only and no responsibility can be accepted for consequential loss or damage.

16. INFRINGEMENT

The Seller can in no case guarantee that the goods the subject of this agreement do not infringe any patent, trade mark, copyright or other similar right held by any third party (and the Buyer accordingly takes the goods with the risk thereof) nor will the Seller accept any liability whether statutory or otherwise to disclose to the Buyer any claim by a third party that the goods do infringe any such right. The Seller therefore will in no circumstances be liable for any damage or loss howsoever caused to the Buyer which is or may be attributable to any such claim.

17. COPYRIGHT

The Seller reserves the Copyright in all its drawings, sketches, plans, prints and other documentation or data.

18. CURRENCY

Unless otherwise agreed the price is to be paid to the Seller in the Isle of Man in pounds sterling without any deduction.

19. FORCE MAJEURE

19.1 The Seller shall not be liable for any failure to deliver the Goods arising from circumstances outside the Seller's control.

19.2 Non-exhaustive illustrations of such circumstances would be an act of God, war or hostilities, riot or civil commotion, explosion, abnormal weather conditions, fire, flood, accidents, strikes, lock-outs or industrial action, Government actions or regulations (UK or otherwise), delay by suppliers or break down of transport or machinery.

19.3 Should the Seller be prevented from delivering in the above circumstances it shall give the Buyer written notice of this fact as soon as reasonably practicable after discovering it.

19.4 If the circumstances preventing delivery are still continuing three months after the Buyer receives the Seller's notice then either party may give written notice to the other cancelling this contract.

19.5 If the contract is cancelled pursuant to clause 19.4 the Seller will refund any payment which the Buyer has already made on account of the price (subject to deduction of any amount the Seller is entitled to claim from the Buyer) but the Seller will not be liable to compensate the Buyer for

any further loss or damage caused by the failure to deliver.

20. NOTICES

20.1 Any notice to be served under these Conditions shall be sent by pre-paid recorded delivery or registered post or by telex or facsimile transmission and shall be deemed to have been received by the addressee within (10 days) of posting or at the end of the relevant transmission to the correct telex number (with correct answerback) or correct facsimile number of the addressee.

20.2 The Buyer shall give notice to the Seller of the change or acquisition of any address or telex facsimile or similar number at the earliest possible opportunity but in any event within 48 hours of such change or acquisition.

21. ASSIGNMENT

The Buyer shall not assign or transfer or purport to assign or transfer the benefits or liabilities arising under the contract for the sale and purchase of the Goods to any other person without the prior written consent of the Seller.

22. PROPER LAW

These conditions shall be governed by and construed in accordance with English law and the Buyer hereby irrevocably submits to non-exclusive jurisdiction of the English Courts in respect of any dispute or matter arising out of or connected with these Conditions.

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Appendix

STRIX LTD. Site Copyright Notice 2008

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¹ Parts 4.2 and 6.4 updated Sept-08, due to advice from CMS CM.