

AEI CABLES LIMITED
CONDITIONS OF SALE R8

**For the Supply of wire, Cables and Flexible Cords, Insulated and Elastomeric
or Plastic Compounds or any combination of such materials**

1. Contract Conditions

Notwithstanding any provisions to the contrary in any other set of conditions, standard terms or otherwise no other conditions shall be applicable to the Contract unless expressly accepted by us in writing. In the event of any inconsistency between these conditions and any other such conditions accepted by us these conditions shall prevail. No variation of these conditions or of any contract term shall be effective unless confirmed by us in writing.

2. Prices

- (a) Unless otherwise stated in our quotation our offer is subject to adjustment for metals to the prices of these commodities purchased for the execution of your order on the first available day following receipt of your order by us and you hereby agree to pay such adjusted prices.

All other prices charged will be those ruling at the date of invoice. The foregoing method and also all basic prices are subject to alteration without notice to reflect any increase in cost to us. The exercise of this right to adjust prices shall not entitle you to cancel the contract.

- (b) All prices are strictly net for cash monthly account, unless otherwise agreed in writing by us. If in the case of cables manufactured to a completion date declared by yourselves when placing the order you are unable to issue delivery instructions to allow delivery by that date the goods will be invoiced and thereafter stored at your risk until instructions for the despatch of the cables are received and the cables delivered. We reserve the right to charge you storage costs incurred by us from the completion date declared by you until the actual date of despatch.
- (c) If owing to conditions beyond our control shipment cannot be made to the specified, nearest or most convenient port, an alternative will be used and any additional expense thereby incurred will be charged to you at cost.
- (d) If we are unable by reason of your instructions or lack of instructions or from causes beyond our control, to deliver, all or any of the goods when ready, we shall be entitled to arrange storage either at our own Works or elsewhere on your behalf and all charges for packing and storage, for insurance, for demurrage, and for carriage shall be payable by you. If we agree to any retesting and necessary refurbishing, these shall all be payable by you. The goods shall be paid for as if they had been delivered.

Where payment is by Letter of Credit, the Letter of Credit shall provide for payment on presentation of warehouse receipt as an alternative to normal shipping documents.

- (e) Prices quoted exclude customs and any other duties which may be payable.
- (f) All prices given are exclusive of value added tax. Such tax will be added, at the appropriate rate on the net invoice price.

3. Raw Materials

All quotations are made subject to our being able to purchase and obtain the necessary raw materials and we reserve the right to vary or withdraw our offer at any time whether or not it has been accepted by you on account of changes in the availability or otherwise of raw materials.

4. Acceptance

- (a) No binding contract shall exist between us until despatch of a written acceptance of order by us and any quotation may be withdrawn or revised by us at any time prior to despatch of our acknowledgement.
- (b) No communication from ourselves or our employees or agents shall be of any contractual effect or be relied on as a representation condition or warranty unless incorporated in our acknowledgement of your order.

5. Deliveries

All delivery times quoted are an estimate only and time for delivery is not of the essence of the contract. Whilst we will endeavour to maintain quoted delivery times we will not be liable for failure to despatch within such time unless you have suffered loss thereby and the amount of any damages payable in respect thereof shall have been agreed in writing as liquidated damages, in which case our liability shall be limited to the amount so agreed to be paid.

6. Warranty

- (a) Unless a particular purpose or specific conditions of use are notified to us in writing prior to acceptance of your order you shall rely on your own skill and judgement as to the suitability of all goods supplied for any particular purpose or for use under any specific conditions.
- (b) Subject to clause 7, our liability in respect of any defect in or failure of the goods supplied is limited to the supply only of new goods in exchange for the defective goods or, at our option, the repair of the defective goods; provided that the failure or defect arises under proper use and solely as a result of faulty design, materials or workmanship on our part and notice is given to us within 12 calendar months after despatch of the goods, at termination of which period all liability on our part shall cease. If we comply with this clause, we shall have no further liability in respect of the goods.
- (c) All warranties, conditions and other terms applied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the contract.
- (d) These conditions shall apply to repaired or replaced goods.

7. Defects

- (a) Nothing in these terms and conditions excludes or limits our liability:-
- (i) for death or personal injury caused by our negligence; or
 - (ii) under section 2(3) of the Consumer Protection Act 1987; or
 - (iii) for any matter which would be illegal for us to exclude or limit or attempt to exclude or limit our liability; or
 - (iv) for fraud or fraudulent misrepresentation.
- (b) Subject to clause 6(c) and clause 7(a) our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the contract shall be limited to the contract price and we shall not be liable to you for 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) which arise out of or in connection with the contract.

8. Tests

If tests other than those specifically referred to in our tender or tests in your presence or that of your representative are required we reserve the right to charge for them. In the event of any delay on your part in attending the tests or in carrying out any inspection required by you after seven days notice that we are ready, tests will proceed in your absence and shall be deemed to have been made in your presence.

9. Indemnity

You agree to indemnify us and keep us fully indemnified against all loss, actions, costs (including the costs of defending any legal proceedings), claims, damages or other expenses which may arise from:-

- (a) any infringement or alleged infringement of patents, trademarks or tradenames, designs (registered and unregistered), copyright or other industrial property rights by goods or possession, sale or use of goods made to instructions in your design, specification or requirements whether such instructions are expressed or implied;
- (b) any action taken by us which we deem necessary, in our sole discretion, in order to comply with any applicable statutory requirements and regulations relating to waste management throughout the European Union; and
- (c) any claim or alleged claim that the goods infringe, or their import, use, possession or sale breaches any applicable statutory requirements or regulations relating to such goods throughout the European Union.

10. Force Majeure

We shall be relieved of all obligations under the contract to the extent to which fulfilment thereof is prevented, frustrated or impeded as a result of any circumstances which are beyond our control including, but not, limited to, status, rules, regulations, orders or requisitions issued by any government department or other duly constituted authority or industrial action, war, and non-availability of raw materials, fuel, energy, epidemic, damage by fire or other natural physical disaster.

11. Payment

- (a) Payments for goods delivered must be made before the end of the calendar month following the month in which the invoice for the goods is issued by us. Time for payment shall be of the essence. No payment shall be deemed to have been received until we have received cleared funds.
- (b) Without prejudice to any other rights or remedies we may have pursuant to these conditions or otherwise, a failure to pay any sums due will result in you being liable to pay interest to us on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of HSBC Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment.
- (c) Property in the goods shall not pass to you until payment in full for the same and any other sums which are or have become due to us from you on any account have been received by us. Risk in the goods shall pass to you upon delivery thereof.

If prior to such payment being received you incorporate the goods into other goods ("the New Goods") we will acquire part ownership in the New Goods in the proportion that monies outstanding from you to us bear to the cost of production of the New Goods and you will hold the same proportion of any proceeds of sale or other disposition of the New Goods on trust for us.
- (d) If notwithstanding the foregoing you are in default of payment of any part of the purchase price or shall before the whole of the purchase price has been paid have a receiving order made against you or being a company go into liquidation or have a receiver appointed then we may without prejudice to any other rights or remedies available to us be entitled to recover possession of the goods and sell the same retaining all monies received on account of the purchase price and accounting to you for the balance.
- (e) You shall make all payments due under the contract in full without deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an equal amount to such deduction to be paid by us to you.

12. Termination

If you fail to observe or perform any of your contractual obligations or shall become insolvent or go into liquidation voluntary or otherwise (other than for the purpose of amalgamation) or shall have a receiver or administrator appointed of any of your property we shall have the right forthwith to terminate any contract or order then subsisting without prejudice to any claim or right that we might otherwise make or exercise.

13. Cable Drums

All wooden drums supplied remain the property of AEI Cables, unless otherwise agreed in writing. Free collection can be arranged. Please see our website www.aeicables.co.uk for details.

14. General

- (a) The contract shall in all respects be construed and operate as an English contract and shall be governed by English Law.
- (b) You shall not be entitled to assign any contract or any part of it without our prior written consent.
- (c) Each of our rights and remedies is without prejudice to any other of our rights and remedies whether under the contract or not.
- (d) If any provision of the contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the contract and the remainder of such provision shall continue in full force and effect.
- (e) Failure or delay by us in enforcing or partially enforcing any provisions of the contract shall not be construed as a waiver of any of our rights under the contract.
- (f) Any waiver by us of any breach of, or any default under, any provision of the contract by you shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the contract.
- (g) The existence of this agreement between us relating to the supply of goods and the terms of this contract, including price and quantity, is a confidential matter and shall not be disclosed by you to any third party without our prior written consent.
- (h) The provisions of the Contract (Rights of Third Parties) Act 1999 are hereby excluded and shall not apply.