

REXEL SENATE LIMITED  
STANDARD CONDITIONS OF SALE

1. GENERAL

(a) In these conditions references to "the Company" are to Rexel Senate Limited and references to the "Purchaser" are to any person, firm or company with whom the Company enters into any contract for the sale of Goods, whether directly or indirectly. "Contract" shall mean any contract between the Company and the Purchaser for the sale and purchase of the Goods, incorporating these conditions. "Goods" shall mean the goods which are the subject of the Contract. "Special Items" shall mean Goods supplied by the Company which are non-stock items. "Van Delivery Area" shall mean the area outlined as being the area within which the Company will use its own vehicles to deliver the Goods to the Purchaser. Such area shall be notified to the Purchaser. Words in the singular shall include the plural and vice-versa. References to any gender shall include the other.

2. APPLICATION OF TERMS

(a) All quotations are given and orders are accepted on these conditions which supersede any other terms appearing elsewhere and exclude and override any other terms or representations stipulated or incorporated or referred to by or on behalf of the Company or the Purchaser, whether in the order or in any negotiations and any course of dealing established between the Company and the Purchaser. These conditions shall apply to all contracts of the Company for the sale of Goods. Unless expressly agreed in writing and signed by a director of the Company, these conditions shall prevail over any inconsistent terms, communications or form of contract and in the event of a Purchaser's order containing or being subject to terms and conditions at variance with these conditions, these conditions shall prevail.

(b) A quotation by the Company does not constitute an offer and the Company reserves the right to withdraw or revise any quotation at any time prior to the Company's acceptance of the Purchaser's order.

(c) All quotations include the cost of delivery unless otherwise expressly stated in writing by the Company.

(d) Each order or acceptance of a quotation for Goods by the Purchaser from the Company shall be deemed to be an offer by the Purchaser to buy Goods subject to these conditions.

(e) No order placed by the Purchaser shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Purchaser.

(f) The Company shall be under no obligation whatsoever to accept repeat or any other orders from the Purchaser.

(g) The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

(h) The Purchaser shall ensure that the terms of its order and any applicable specification are complete and accurate.

(i) Nothing in these conditions of sale shall affect the statutory rights of consumers.

3. PRICES

(a) Unless otherwise agreed in writing the price for the Goods shall be as set out in the Company's price list in force at the time the Goods are despatched. Any increase in price between the date the Goods are ordered and the date they are despatched shall be for the account of the Purchaser. The amount of any such increase shall be notified to the Purchaser.

(b) The price is exclusive of any additional costs and charges which may be applied to the Goods, including (without limitation) those which may be applied in order to meet costs arising pursuant to the Waste Electrical and Electronic Equipment Regulations 2006, which shall be payable by the Purchaser.

(c) The price together with all other costs and charges are exclusive of any Value Added Tax, duties and levies, which shall be payable by the Purchaser in addition to the price at the applicable rates. Subject to condition 6 below, the price shall include the cost of delivery.

(d) The Company reserves the right to make a handling charge on any orders, the total invoice price of which (excluding VAT) is less than the Company's small order value as notified to the Purchaser from time to time.

4. PAYMENT

(a) Until such time as the Company has confirmed credit account facilities in writing, payment shall be due in full in sterling on or before delivery, without any set off, deduction or counterclaim.

(b) The Company may at its discretion establish a credit account for the Purchaser (subject to receipt of references or such other conditions as the Company sees fit). The Company shall be entitled to refuse to establish or to continue such an account without providing any reason. If such an account is established and remains in operation, payment is due in full in sterling 30 days from the end of the month in which the invoice is dated. The Company may at its discretion vary the credit limit from time to time.

(c) Time for payment shall be of the essence and no payment shall be deemed to have been received until the Company has received cleared funds.

(d) A settlement discount may be allowed for payment made within 30 days from the end of the month in which the invoice is dated except on Value Added Tax or on such items marked on the Company's quotation, acceptance order, or invoice as being "Strictly Nett." The amount of any settlement discount shall be determined by the Company at its discretion and notified on the Company's invoice/statement.

(e) The Company may without prejudice to its other rights charge interest on any overdue accounts at the rate of 4% over the base rate of Barclay's Bank plc from time to time to be compounded monthly from the due date until payment in full is made both before and after judgement.

(f) The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

(g) If any amount payable to the Company by the Purchaser on any account is left outstanding beyond the due date for payment, the Company may suspend performance of its obligations under any or all contracts with the Purchaser. If any outstanding amount is overdue the Company reserves the right strictly at its own discretion to treat any outstanding order as cancelled without incurring any costs or other liability as a result of such cancellation.

(h) The Purchaser shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Purchaser.

(i) The Company may request a sum to be paid by the Purchaser in advance. Any advance payments made by the Purchaser at the Company's request shall be held by the Company as a deposit and not a part payment. Any deposit is non refundable in the event of cancellation of the Contract by the Purchaser.

(j) The Purchaser shall pay to the Company, in addition to other amounts payable hereunder, any costs reasonably incurred by the Company (including without limitation, legal costs and fees of debt collection agencies) in recovering any amounts due to the Company from the Purchaser pursuant to the Contract.

5. PROPERTY

(a) Title to the Goods shall remain with the Company until such time as the Company has received:

(i) all payments owing to the Company under the Contract by the Purchaser; and

(ii) all payments owing to the Company by the Purchaser on any other account whatsoever have been paid in full.

This shall not prevent the Company from taking any action for the price of the Goods.

(b) While the Goods are the property of the Company, the Purchaser shall:

(i) hold the Goods on a fiduciary basis as the Company's bailee

- (ii) store the Goods (at no cost to the Company) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Company's property
  - (iii) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods
  - (iv) keep the Goods safe and in satisfactory condition and insured on the Company's behalf; and
  - (v) not charge, pledge or deal with the Goods or allow any lien or other interest to arise over them.
- (c) If any amount owing by the Purchaser to the Company on any account is not paid or the Purchaser ceases or threatens to cease trading or is unable to pay its debts as they fall due, or has any receiver or liquidator appointed over any of its business or assets, or passes a resolution for winding-up, or is the subject of any application, petition or order for administration, winding-up, dissolution or bankruptcy, or enters into any composition or voluntary arrangements with its creditors or is subject to any similar event of insolvency in any other jurisdiction or the Company reasonably suspects that the Purchaser is likely to be subject to any of the same then the Company shall be entitled to the immediate return of all the Goods which are the property of the Company.
- (d) The Purchaser grants the Company and its representatives an irrevocable right and licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Company is entitled to the immediate return of the Goods, to recover them.

## 6. CARRIAGE

At the sole discretion of the Company and provided always that delivery is made within the Van Delivery Area, the price of the Goods shall include the cost of delivery, packaging and insurance. Otherwise the Company may choose the mode of transport and may charge for delivery and such services shall be for the account of the Purchaser. The Company may also charge delivery costs of any Special Items to the account of the Purchaser.

## 7. DELIVERY

- (a) The Company shall use reasonable commercial endeavors to deliver the Goods in accordance with any despatch date notified to the Purchaser and time of delivery shall not be of the essence. The Company shall not be responsible for any delay by third party carriers.
- (b) The Company shall not be liable for any business interruption, loss of production, loss of profits, contracts, goodwill or anticipated savings, loss arising from any third party claims or any special, indirect or consequential loss (whether or not foreseeable) howsoever suffered by the Purchaser caused directly or indirectly by any delay in delivery of the Goods (even if caused by the Company's negligence).
- (c) If for any reason the Purchaser fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Purchaser has not provided appropriate instructions, documents, licences or authorisations:
- (i) risk in the Goods shall pass to the Purchaser (including for loss or damage caused by the Company's negligence);
  - (ii) the Goods shall be deemed to have been delivered; and
  - (iii) the Company may store the Goods until delivery, whereupon the Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance) and the Company shall be entitled to charge the Purchaser any increase in the Company's list price of the Goods between the due date for despatch or collection and the date on which despatch or collection is actually affected.
- (d) The Company reserves the right to deliver the Goods by instalments and to invoice for each instalment separately. Each delivery shall constitute a separate Contract and any claim by the Purchaser relating to specific instalments shall not of itself entitle the Purchaser to any remedy in respect to other instalments.
- (e) Where transportation is arranged by the Company, delivery shall take place when the Company or its carrier or agent unloads the Goods at the location specified by the Purchaser. Otherwise delivery shall take place when the Purchaser or its carrier or agent collects the Goods from the Company's premises.
- (f) The Purchaser shall provide at the location specified for delivery and at its expense adequate and appropriate equipment and manual labour for unloading the Goods.
- (g) If the Company delivers to the Purchaser a quantity of Goods of up to 3% more or less than the quantity accepted by the Company, the Purchaser shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.
- (h) Risk of loss or damage of any kind to the Goods (but not the title) shall pass to the Purchaser on delivery or, in the event that the Purchaser, its carrier or agent fail to collect the Goods on the due date for collection.
- (i) Goods delivered in accordance with the Contract may not be returned without the Company's express written agreement and subject to the Purchaser reimbursing all the Company's costs relating to that Contract.

## 8. NON-DELIVERY

- (a) The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Purchaser on delivery unless the Purchaser can provide conclusive evidence proving the contrary.
- (b) The Company shall not have any liability for short delivery, loss or damage to Goods occurring prior to delivery or for non-delivery (even if caused by the Company's negligence) unless claims to that effect are notified verbally to the Company within 3 days of delivery and confirmed in writing to the Company within 7 days from delivery (in the case of loss or damage or short delivery) or within 7 days of the Company's invoice or advice note (in the case of non-delivery).
- (c) Any liability of the Company for short delivery, loss or damage to Goods occurring prior to delivery or non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods, at the Company's discretion.

## 9. WARRANTY AND EXCLUSION

- (a) Where the Company is not the manufacturer of the Goods, the Company will use its reasonable endeavors to assign the benefit of any warranty or guarantee it receives from its supplier to the Purchaser. The Company accepts liability for any Goods sent for repair only while they are on the Company's premises or in transit under the Company's control.
- (b) Where the Company is the manufacturer, or is deemed to be the manufacturer of the Goods, it warrants that the Goods shall at the time of delivery meet its written specifications in all material respects.
- (c) To the fullest extent permitted by law, the Company shall not be liable for any business interruption, loss of production, loss of profit, contracts, goodwill or anticipated savings, loss arising from any third party claims or any special, indirect or consequential loss (whether or not foreseeable) in respect of defects in the nature of or the quality of any Goods supplied by the Company whether or not caused by the negligence of the Company, its employees or agents.
- (d) Nothing in these conditions shall exclude or limit the liability of the Company for:
- (i) death or personal injury resulting from its negligence;
  - (ii) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
  - (iii) for fraud or fraudulent misrepresentation.
- (e) Save as expressly provided in these conditions all terms, conditions, representations and warranties, (whether expressed or implied by statute common law or otherwise) relating to the sale of goods are excluded to the fullest extent permitted by law. The Goods are not sold by description or sample.
- (f) Subject to any of the limitations or exclusions of liability in these conditions, the maximum aggregate liability of the Company, its employees and agents, for breach of any Contract and otherwise in connection with that Contract (including for any breach of any statutory duty and any tortious act or omission,

including negligence) shall so far as permitted by law be limited to the amount payable under the terms of the relevant Purchase Order or, if applicable, under the terms of the Contract.

#### 10. THIRD PARTY CLAIMS

(a) The Purchaser shall indemnify keep indemnified and hold harmless the Company against any liability, whether or not foreseeable and howsoever arising, including without limitation, in contract, tort or as a breach of statutory duty, including damages penalties costs and expenses incurred by the Company:

(i) as a result of incorporating property (including but not limited to the materials) in the Goods; or applying any patent, registered design, unregistered design, copyright, trademark, tradename or design to the Goods; in each case on the Purchaser's instructions, suggestions or specifications, or complying with any other instructions, suggestions or specifications of the Purchaser relating to the Goods; and

(ii) in relation to any third party claims arising from the use made of or dealings by the Purchaser in the Goods (irrespective of whether they involve the negligence of the Company, its agents or employees), except if arising from the Company's wilful default.

(b) The Purchaser shall notify the Company forthwith of any claim made or action brought or threatened alleging infringement of the rights of any third party. The Purchaser shall have control over and shall conduct any such proceedings in such manner as it shall determine. The Purchaser shall provide all such reasonable assistance in connection therewith as the Company may request.

#### 11. CANCELLATION

There can be no cancellation of an order by the Purchaser without the Company's written consent. On cancellation of an order or in the event of other default by the Purchaser, a cancellation charge will be levied to reflect the costs incurred by the Company prior to the date of cancellation. The Purchaser will indemnify the Company in respect of any third party claims arising out of the Purchaser's repudiation or suspension of any order or orders.

#### 12. DESCRIPTIVE MATTER AND ILLUSTRATIONS

(a) All descriptive and forwarding specifications, drawings and particulars of weights and dimensions issued by the Company are approximate only and are intended only to present a general idea of the Goods described therein and nothing contained in any of them shall form part of any contract with the Company.

(b) The Company reserves the right, at any time, to vary the technique, design, construction and specifications of Goods without notice. Such changes may result in slight variations in detail from the description or illustrations in Company literature which shall not entitle the Purchaser to rescind the Contract.

#### 13. INTELLECTUAL PROPERTY

(a) In these conditions "Intellectual Property Rights" means all or any intellectual and industrial property rights, including without limitation patents, copyright, design rights, trade marks, know how and confidential information, in each case whether registered, unregistered or in the process of being registered.

(b) With the exception of any Intellectual Property Rights in the Goods which are either owned by or licensed by a third party to the Purchaser, all Intellectual Property Rights in the Goods are and shall remain the absolute and exclusive property of the Company.

(c) The Purchaser shall not use any trademarks or tradenames applied to or used by the Company in relation to the Goods in any manner not approved in advance in writing by the Company.

#### 14. FORCE MAJEURE

(a) The Company shall not be liable for any failure to comply with the Contract related to any circumstances whatsoever (whether or not involving the Company's negligence) which are beyond the Company's reasonable control and which prevent or restrict the Company from complying with the Contract including (without limiting the foregoing) acts of God, civil commotion, war, strikes, lock-outs, industrial action, shortage of supplies, breakdown, transport delays, accidents, government action, fire, explosion, flood, epidemic, terrorism or criminal acts.

(b) The Company may where reasonable in all the circumstances (whether or not involving the Company's negligence) without liability suspend or terminate (in whole or in part) its obligations under the Contract, if the Company's ability to manufacture, supply, deliver or acquire materials for the production of the Goods by the Company's normal means is materially impaired.

#### 15. MISCELLANEOUS

(a) Nothing in this Contract is intended to confer on any third party (whether referred to herein by name, class, description or otherwise) any benefit or any right to enforce any provision contained in this Contract.

(b) Notices must be in writing to the Company's or the Purchaser's address and are deemed delivered on the first working day after sending by hand or (subject to confirmation of transmission) by telex or facsimile, or, within the UK, on the third working day after being placed prepaid in the first class post to the Purchaser's or the Company's U.K. address. Qualified acceptances by the Purchaser on delivery notes shall not constitute notice of any claim or acceptance by the Company of any such qualification.

(c) No waiver of these conditions shall be valid unless agreed in writing by a director of the Company. Any delay or failure of the Company to insist upon the strict performance of any of the terms and conditions of the Contract shall not be construed as a waiver of any such term or condition and shall in no way affect the Company's right to enforce such provision later.

(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) The Contract may not be assigned by the Purchaser without the Company's prior written consent.

(f) The provisions of conditions 5, 9 and 10(a) shall survive any termination of the Contract.

(g) No remedy conferred by any of the provisions of the Contract is intended to be exclusive of any other remedy, except as expressly provided in the Contract and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise.

#### 16. GOVERNING LAW AND JURISDICTION

The Contract shall be governed and construed in accordance with English Law. The Purchaser submits to the exclusive jurisdiction of the English Courts but the Company may enforce the Contract in any court of competent jurisdiction.