

Terms and Conditions of Sale

Electrox ("the Seller") makes all offers and accepts all orders only upon and subject to the following terms and conditions which form part of any contract concluded between it and the company/person addressed in the attached proposal/order acceptance document ("Buyer"), to the exclusion of any other terms and conditions except as specified on the face of the Sellers quotation or as otherwise agreed in writing by the Seller's authorised signatory.

1. GENERAL

- 1.1 All offers remain open for acceptance within 30 days after the date of the Sellers quotation and subject to availability of the goods at the date of issue of Sellers acceptance of order or confirmation of contract.
- 1.2 Acceptance must be by way of unqualified acceptance of Sellers written quotation and its contents, terms and conditions. Descriptions, illustrations, specifications, drawings and particulars of weight and dimension contained in the Sellers catalogues, advertisements and other literature are approximate only and form no part of the contract.
- 1.3 All extras and accessories ordered but not specified in the Sellers quotation will be charged separately as will the cost of all test adjustments, alterations, additions and any other work undertaken at the Buyers request.
- 1.4 Unless expressly accepted by the Seller in writing, any qualification or amendment of these conditions (whether in the Buyers order or acceptance of Sellers offer or otherwise) shall be invalid.
- 1.5 Acceptance of any quotation or acceptance of order containing these terms or by failure of the buyer to reject these terms within ten (10) days after receipt thereof, or by acceptance of the work to be performed or the items to be delivered as described on the face of the order, the Buyer shall be deemed to have accepted these terms without reservation or condition. All clerical errors or omissions are subject to correction. Any conditions or other changes to these terms shall not be binding on the Seller unless given in writing signed by the Sellers authorised signatory.

2. EXCLUSION OF LIABILITY

- 2.1 Save as expressly provided in these Conditions the Seller is under no liability whatsoever in respect of any loss, damage, injury or expense whatsoever arising from any defect in the goods and in particular (but without prejudice to the generality of the foregoing) the Seller shall not be liable for any consequential loss damage or expense including any loss of profit, loss of use, loss of production, any other indirect loss or damage, or any liability to third parties incurred by the Buyer in consequence of such defects.

Nothing in these conditions shall apply to exclude or restrict any liability which cannot be excluded or restricted by virtue of the Unfair Contract Terms Act 1977.

- 2.2 The Buyer will indemnify the Seller in respect of any liability, loss, claim or processing whatsoever arising whether under statute or at common law in respect of any damage to property or the death of or injury to any person caused by or by the use of any goods sold by the Seller to the Buyer unless, in the case of death or personal injury only, such death or injury shall be proved to have been caused by the Sellers negligence.

3. CHANGES IN SPECIFICATION

The Seller reserves the right to make changes at any time and without notice in the materials, dimensions and design of its goods and such changes shall not affect the validity of any contract between the Seller and the Buyer provided that such variations and modifications do not adversely affect, in any material way, the performance of the goods or the quality of workmanship or the materials used.

4. WARRANTIES

All implied warranties are hereby excluded to the fullest extent permitted by law and only the following warranties shall apply to any goods sold.

4.1 LASER MARKER SYSTEMS

The Seller warrants that the laser source shall be free of defects in workmanship and material as per the list below:

- | | |
|----------------------------|--|
| Cobra Vanadate | - 15,000 hours or 2 years, whichever occurs first. |
| Scorpion / Scorpion Rapide | - 17,000 hours or 2 years, whichever occurs first. |

- Razor - 10,000 hours or 2 years, whichever occurs first.
- Raptor (EF Technology) - 35,000 hours or 4 years, whichever occurs first.

The Seller warrants that the laser components (excluding the laser source) shall be free of defects in workmanship and material as per the list below:

- Cobra Vanadate - 12 months
- Scorpion / Scorpion Rapide - 24 months
- Razor - 24 months
- Raptor - 24 months

With the following exclusions:

- 4.1.1 Optical elements internal to the laser such as mirrors and output windows carry a 3 month or 500 hour warranty, whichever comes first.
- 4.1.2 The Seller accepts no responsibility for any major components and sub systems manufactured by other organisations, and sold as an external 'add-on' to the Seller's goods. Such articles carry only the original manufacturer's warranty and the Buyer is entitled to the benefit of such warranty only so far as the Seller has power to transfer it.
- 4.1.3 The Seller accepts no responsibility with respect to the design or operation of any system in which the goods sold hereunder are mere components.
- 4.1.4 The Seller will not be held responsible for any malfunction or damage of any sort caused by the addition of or mating with equipment from other suppliers.
- 4.1.5 The Seller accepts no responsibility for consumable items such as filters, oil, lamps, focussing lens or fibres.
- 4.1.6 The Seller accepts no responsibility for any of its water-cooled components against contingent or subsequent damage resulting from negligence in providing the required water-cooling, or resulting from unexpected events or failures which cause the required water-cooling to be interrupted during operation of the product.
- 4.1.7 Damage can be caused to the Sellers goods by incorrect connection to electrical, gas, air, water supplies and water drainage facilities. No claims for damage or malfunction can be considered if these supplies are incorrect.
- 4.1.8 Damage or malfunction caused by the Buyer by incorrect use, lack of, or incorrect maintenance procedures, or unauthorised modifications to the goods or any other negligence on the part of the Buyer shall render this warranty invalid.

Acceptance of warranty claims by the Seller is contingent upon the following conditions

- (i) The Buyer promptly notifies the defect to the Seller.
- (ii) The goods have been properly installed, maintained by the Sellers engineers or engineers approved by the Seller, and operated within the limits of related and normal usage as specified by the Seller.

4.2 COMPUTER SOFTWARE

Any computer program, parts program or programming manual (herein after called software materials) which, under normal operating conditions in the plant of the Buyer, proves defective, as determined by Sellers inspection, within twelve (12) months from the date of original shipment will be corrected by the Seller.

Acceptance of warranty is contingent upon the following conditions

- 4.2.1 That the Seller promptly receives from the Buyer notice of the defect including a reasonably detailed description of the problem or difficulty which has been experienced.
- 4.2.2 That the Buyer establishes that the correction does not involve new software materials to serve a function not intended to be served by the original software materials.
- 4.2.3 That no change or addition has been made in or to the Sellers software materials which had not been first approved by the Seller in writing.

4.3 WORKSTATIONS AND SYSTEMS

Any workstation or system which, under normal operating conditions in the plant of the Buyer, proves defective, as determined by Sellers inspection, within twelve (12) months from the date of original shipment will be corrected by the Seller.

4.4 SPARE PARTS AND SERVICE

The Seller warrants that the laser source shall be free of defects in workmanship and material as per the list below:

Scorpion, Scorpion Rapide, Razor & Raptor	- All parts 2 years
All other lasers	- All parts 1 year (excluding diode head & optics)
Scriba diode head	- 2 years or 10,000 hours, whichever occurs first
Cobra & Cobra II diode head	- 2 years or 10,000 hours, whichever occurs first
Cobra Vanadate diode head	- 2 years or 15,000 hours, whichever occurs first
All service exchanged parts	- 3 months (excluding diode heads)
Service exchange diode head	- 1 year or 5000 hours, whichever occurs first
All service repairs	- 3 months
All optics	- 3 months or 500 hours, whichever occurs first

With the following exclusions:

- 4.4.1 The Seller accepts no responsibility for consumable items such as filters, oil, lamps, focussing lens or fibres.
- 4.4.2 The Seller accepts no responsibility for any of its water-cooled components against contingent or subsequent damage resulting from negligence in providing the required water-cooling, or resulting from unexpected events or failures which cause the required water-cooling to be interrupted during operation of the product.
- 4.4.3 Damage or malfunction caused by the Buyer by incorrect use, lack of, or incorrect maintenance procedures, or unauthorised modifications to the goods or any other negligence on the part of the Buyer shall render this warranty invalid.

4.5 GENERAL

- 4.5.1 Warranties to repair or replace defective goods or parts thereof or to correct software materials as set out in this article 4 are valid only if certified Sellers components are used in the replacement of any components or parts of the goods during the warranty period. If components other than certified Sellers components are used that have a material impact on the use or operation of the goods or have in any way contributed to the failure or breach of any warranties provided in this section, all warranties provided in this article 4 are rendered null and void.
- 4.5.2 Should The Buyer fail to pay the full amount due within thirty days of the due date for payment under the contract, Buyer agrees that such failure shall constitute a voluntary waiver of any and all such warranties pursuant to such contract.
- 4.5.3 In the event of any claim, the Seller reserves the right to determine whether repairs are made on the Buyers or the Sellers premises.
 - 4.5.3.1 If repairs or replacements are made during warranty on the Buyers premises, the Seller will replace defective components free of charge and labour is provided free of charge, but the Buyer is responsible for bearing the cost of personnel travelling to and from the Sellers premises to the Buyers premises and also for the hotel and subsistence expenses incurred by the Sellers personnel.
 - 4.5.3.2 If repairs are made at the Sellers premises the goods must be returned by the Buyer pre-paid and insured, by an agreed method of transportation. After repairs or replacements have been carried out the goods will be returned to the Buyer at the Buyers expense.
 - 4.5.3.3 The Seller shall not be responsible in any circumstances for any loss or damage caused to the goods during transportation.

4.5.3.4 In the event that the Seller determines that a warranty claim is not valid, for any of the reasons described herein, the Seller retains the right to charge the Buyer in full for the Service work and all costs incurred.

5. REFUND OF PURCHASE PRICE

In lieu of the requirements of condition 4, the Seller may at any time elect, at its sole discretion, to discharge its warranty by accepting the return of any goods and refunding any portion of the purchase price paid.

6. BUYER MAINTENANCE RESPONSIBILITY

The Seller will provide an operating and maintenance manual in connection with each installation, including a schedule of maintenance requirements for the specific goods. The Buyer agrees to assign to one or more of its own qualified personnel the responsibility for carrying out the maintenance procedures defined in the manual.

Failure to comply with the maintenance procedures may cause the warranty under condition 4 above to be withdrawn.

7. PRICES

- 7.1 Unless otherwise stated all prices quoted are for goods ex works. Packing, carriage and insurance costs will be charged additionally to the Buyers account.
- 7.2 All prices quoted are subject to change without notice prior to acceptance of order by the Seller, with the exception of written quotations which are valid only for the period stated.
- 7.3 The Seller shall be entitled to adjust the price to take account of any delay on the part of the Buyer in supplying information required to complete its order or of any alteration made by the Buyer to specifications or other information supplied by the Buyer.

8. PAYMENT AND TITLE TO GOODS

- 8.1. Payment shall be made on one of the following bases:
 - 8.1.1 30% payable with order, 60% payable on delivery prior to installation and 10% not to exceed 30 days from sign-off.
 - 8.1.2 Net cash with order.
 - 8.1.3 Confirmed irrevocable letter of credit established in London prior to manufacture of the goods.
 - 8.1.4 Within 30 days of invoice date. Such accounts will only be opened after credit investigations at Sellers sole discretion have been satisfactorily completed.
 - 8.1.5 As set out in the quotation.
- 8.2. Until full payment has been received by the Seller, the Seller shall retain the ownership of the goods and Buyer shall:
 - 8.2.1 Hold them as bailee only and shall not sell, part with or modify them in any way nor incorporate them into any other machine or device in such a way as to destroy or obscure their identity, and
 - 8.2.2 Insure them for their full contract value against all risks with an underwriter or insurance company approved by the Seller, the Sellers interest to be noted on the policy and certificate to this effect is to be produced to the Seller on request.
 - 8.2.3 Store them separately from all other goods and in such a way that they may at all times be clearly identified as Sellers property.
- 8.3 In the event of a failure by the Buyer to pay for the goods and/or the commission of an act of bankruptcy and/or the commencement of any proceedings to windup the Buyer where the Buyer is a limited company:
 - 8.3.1. The Seller reserves the right to enter the Buyers premises, or any other place where the goods might be, without notice, in order to repossess the goods.

- 8.3.2. Any such goods or part of goods so repossessed may be resold without notice to the Buyer and without prejudice to the Sellers right to claim damages against the Buyer.
- 8.4 The Seller reserves the right at any time to charge interest on late payments with effect from the due date and on a day to day basis at a compound annual rate of 4% above bank base lending rate.
- 8.5 In the event that the Buyer fails to make payment for the goods or fails to take delivery of any of the goods supplied by the Seller, then all sums outstanding in respect of any goods supplied by the Seller shall become due and payable immediately and the Seller may in its absolute discretion and without prejudice to any other rights it may have:
- 8.5.1 Suspend all future deliveries of goods to the Buyer under the contract in question or under any other contract and/or terminate any other such contracts without liability on its part: and/or
- 8.5.2 Require payment of interest on all amounts due at a compound annual rate of 4% above bank base lending rate for the time being prevailing from the date when payment of the goods in question became due to the date of actual payment.

9. DELIVERY AND RISK IN THE GOODS

- 9.1 The Seller will use its best endeavours to comply with any quoted delivery dates but will not be liable for any loss, damage, injury or expense, either direct or indirect and including, but not limited to, loss of profit or liability to third parties, which may be suffered by the Buyer by reason of late delivery of the goods from whatsoever cause such late delivery may arise.
- 9.2 The Seller will endeavour to meet delivery schedules but the time for delivery mentioned in the quotation and/or order acceptance is intended as an estimate only and is not therefore to be treated as of the essence of the contract.
- 9.3 The Buyer shall have no right to reject goods by reason of their being delivered other than at the quoted time.
- 9.4 The Seller shall insure the goods for their full contract value against the risk of loss or damage in transit and the premium will be charged to the Buyer.
- 9.5 The Seller shall not be liable for failure to deliver goods or to complete work or for failure to do so promptly if such failure arises due to force majeure or by reason of any delays occasioned by strikes, riots, lockouts or of a labour trouble, war, fire, accident, mechanical failure, non availability to the Seller of supplies of stock, parts, or materials, delay in delivery to the Seller of the goods or materials therefore by suppliers or other persons, Government action, legislation or regulation of any kind, Act of God, or any circumstances etc. whatsoever outside the reasonable control of the Seller and such delay or failure to deliver or to complete work on goods shall not affect the Buyers obligation to pay for goods already delivered and work already completed.

10. CANCELLATION

The Buyer shall not be entitled to cancel the contract or any part thereof nor to require delay in its performance without the written consent of the Seller. Written consent will only be given by the Seller on terms that indemnify the Seller against all loss. Specifically charges will be made to take into account expenditures and commitments made by the Seller for labour and material costs overhead and other production costs.

11. PACKING

Where goods are sold packed the extent of packing and/or protection necessary will be at the Sellers discretion. Any special packing stipulated by the Buyer will be charged to the Buyers account. Any goods sent unpacked at the Buyers request will be at the risk of the Buyer. All packing materials are non returnable.

12. STORAGE

If within 14 days after the Seller despatches its notification to the Buyer that goods are ready the Buyer does not make arrangements for the collection or storage of the goods, the Seller shall be entitled to submit its sales invoice for payment and arrange storage either at its works or elsewhere on the Buyers behalf and all charges for storage and/or insurance shall be forwarded to the Buyers account.

13. LOSS OR DAMAGE IN TRANSIT

- 13.1 The Seller accepts no liability for loss or damage in transit except in the case of goods sold delivered and in such case the responsibility of the Seller will be limited to replacing or repairing the missing or damaged goods, or at its option refunding the purchase price. In any event no claim will be considered unless both the carriers and the Seller are notified in writing.
- 13.2 In the cases of damaged goods notification must be received in writing within three days of receipt of the goods other than on any proof of delivery note; and in the case of non delivery within 14 days after the date of despatch as notified to the Seller.

14. TRADEMARKS

The Buyer may not at any time erase, alter or deface the Sellers name or any of the Sellers trademarks or attach any other trademark to the goods or juxtapose any trademarks with any other mark likely to cause confusion, unless in receipt of the express permission of the Seller in writing.

15. COPYRIGHT

Copyright on the Sellers designs, data sheets, packing and literature shall remain the property of the Seller and no rights of licence, except as to the use for which the Sellers goods are supplied, shall be granted hereby whether express or implied.

System Operation Control programs (Programs) supplied with the Seller's control products whether provided in transportable media or embedded within the goods are the Seller's copyrighted property. The Buyer is granted a non-exclusive right to use Programs only in the equipment Seller designates. Unless being supplied with its associated products hereunder, no program regardless of the form in which it is embodied when received by the Buyer, shall be made available to others without the Seller's prior written consent. The ownership of Programs shall at all times remain with the Seller. In the event that the Buyer makes an unconsented use, duplication or transfer of any Program, the Seller may terminate the right granted; and the Buyer shall, upon and in accordance with the Seller's request, return or destroy all copies of Programs then in its possession. The Seller's right to terminate the right granted shall be in addition to the Seller's other rights and remedies for unconsented use, duplication or transfer, including the Seller's right to seek damages for same.

16. IMPORT

When requested by the Seller, the Buyer will be responsible for obtaining an import licence and for ensuring compliance with all regulations governing the admission of goods into the country of delivery.

If requested by the Seller, a valid End User Certificate must be provided by the Buyer.

17. EXPORT

If goods are to be exported and an export licence is required, it is the responsibility of the exporting agent to obtain the necessary clearance for exporting the equipment. In the event of an order being placed with the Seller, accompanied by a deposit, no refunds can be made in the event of export licences being refused.

18. HEALTH AND SAFETY

The Buyer shall be responsible for ensuring that all Statutory, Government or Local Authority regulations are complied with in relation to the operation of any goods purchased from the Seller. Should any local regulations require amendments to the specification included in the contract, the cost of any such amendments shall be charged to the account of the Buyer in addition to the original contract price. The Buyer shall ensure that all instructions, handbooks, notices and warnings issued by the Seller are properly understood and complied with at all times by all persons using the goods or working within close proximity to them, the Buyer being responsible for the translation of the English narrative supplied by the Seller.

19. NOTICES

Where a notice is required to be served on the Seller by the Buyer or on the Buyer by the Seller such notice must be served in writing. Any notice to the Seller shall be sent to the Seller at its principal place of business and any notice to the Buyer shall be sent to the Buyer at the address given by the Buyer in its order or acceptance of the offer. Where in these conditions a period is specified within which notice is to be given such notice must reach the party to which it is addressed within that period.

20. SET OFF AND COUNTER CLAIM

The Buyer shall not be entitled to withhold payment of any sums after they become due by reason of any right of set off or counter claim which the Buyer may have or alleged to have or for any other reason whatsoever.

21. ASSIGNMENT

The Buyer may not assign its rights and obligations under this agreement without the prior written consent of the Seller.

22. APPLICABILITY OF THESE CONDITIONS

These conditions entirely supersede any prior oral representations, correspondence, proposal, quotation or agreement. These conditions constitute the final and total expression of such agreement between the parties, and are a complete and exclusive statement of the terms of that agreement. No terms additional to or different from those contained herein set forth in any acceptance hereof shall be binding upon the Seller unless approved in writing by an authorised signatory of the Seller.

These conditions shall also apply to any future oral or written contract for the supply of goods and/or service by the Seller to the Buyer save to the extent that such conditions are in any future contract specifically varied or excluded or are inconsistent with what is expressly agreed in any such future contract.

23. GOVERNING LAW

These conditions and any contracts between the Seller and the Buyer shall be governed in all respects by the laws of England. The Buyer shall submit to the jurisdiction of the English courts.