

## Terms and Conditions of Sale

All previous issues are cancelled.

**General** "Seller" means Novar ED&S Limited. "Buyer" means the person, firm or company to whom Seller supplies the Goods. All quotations are given and all orders are accepted on these terms, which apply to the exclusion of all other terms or representations including any proposed by Buyer, and shall represent the entire contractual Agreement between the parties. All orders hereafter made by Buyer shall be deemed to be made subject to these terms. Prior to placing its first order with Seller, Buyer must open an account with Seller and, on request from Buyer, Seller will send to Buyer the required forms for completion

**Acceptance of Orders** No contract for the sale of Goods ("Goods") shall be concluded until either Seller sends or otherwise communicates to Buyer its acceptance of Buyer's order or on delivery to Buyer of Goods, whichever is the earlier. and save as provided herein, no modification of these terms shall be effective unless made by an express written agreement between the parties. The signing by Seller of any of Buyer's documentation shall not imply any modification of these terms.

**Illustrations, Descriptive Matter and Dimensions** All descriptions and illustrations contained in catalogues, price lists and advertisements or otherwise communicated to Buyer are intended merely to present a general description of Goods described therein, and nothing contained in any of them shall form any part of the contract.

**Designs** Seller's policy is one of continuous improvement. The right to change designs at any time without notice is reserved.

**Samples** Notwithstanding that a sample of Goods may have been exhibited to and inspected by Buyer, it is hereby agreed that such sample was so exhibited and inspected solely to enable Buyer to judge for himself the quality of goods and not so as to constitute a sale by sample. Buyer shall take Goods at his own risk as to their corresponding with said sample or as to their quality, condition or sufficiency for any purpose.

**Prices** Seller may change the prices of all Goods at its sole discretion and without any notice, except that any Seller's quotation is firm if Buyer enters an order within the time specified on the quote or, if none is mentioned, 30 days from date of quote. Buyer must request shipment of the entire quantity of Goods ordered within 6 months from date of order unless otherwise agreed in writing, otherwise, Seller standard prices at time of shipment may, at Seller's option, apply to those quantities delivered, even if already invoiced. Unless specifically stated, prices do not include design, installation, start-up, commissioning or maintenance. All tooling, designs, drawings, and other intellectual property produced or delivered hereunder are owned by Seller. If, at any time, Seller's costs of materials have increased by 5% or more, then Seller may increase the price on all affected Goods accordingly with respect to existing and future Seller quotations and/or Buyer purchase orders.

**Delivery** All delivery dates are estimates only and the time of delivery shall not be of the essence of the contract. In no circumstances shall Seller be liable to compensate Buyer in damages or otherwise for non-delivery or late delivery of Goods or any of them for whatever reason or for any loss, consequential or otherwise, arising therefrom. Seller reserves the right to make partial deliveries and to allocate available supplies of Goods amongst customers in time of shortage. Seller shall be entitled to deliver Goods in one or

more consignments unless otherwise expressly agreed in writing. All delivery dates are estimates unless agreed otherwise by Seller in writing. Delivery terms for Goods are EXWORKS (Incoterms 2020) Seller's facility with all risk of loss or damage to Goods passing to Buyer upon delivery to carrier. Within 30 days of delivery, any claim for shortage must be reported in writing to Seller, otherwise all Goods will be deemed delivered and accepted. Buyer shall be liable for any delays or increased costs incurred by Seller caused by or related to Buyer's acts or omissions. Title to Goods shall pass to Buyer when it has paid the full price for Goods. Until title in Goods passes to Buyer, Buyer shall hold Goods in a fiduciary capacity and shall (i) keep Goods separate from those of Buyer and third parties and (ii) properly stored, protected, insured and identified as Seller's property. If Buyer re-sells or uses Goods in which title remains with Seller it shall be liable to account to Seller for the proceeds of sale or otherwise of such Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured. Until title in Goods passes to Buyer and provided that Goods are still in existence and have not been re-sold, Seller shall be entitled at any time to require Buyer to deliver up Goods to Seller. Buyer irrevocably authorises Seller, its agents and employees to enter upon any premises where Goods are stored in order to inspect Goods or to recover them. Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of Goods which remain the property of Seller, but if Buyer does so, all monies owing by Buyer to Seller shall (without prejudice to any right or remedy of Seller) forthwith become due and payable.

**Carriage and Packing** Packing materials are, unless stated otherwise, non-returnable. Seller will pay packing and carriage on all orders having a net value of £300 (exc. VAT) or over and Goods will be consigned by carrier at goods rate. Orders instructing despatch by other means will be subject to a packing and carriage charge to cover additional cost. Orders of less than £300 (exc. VAT) net value will be consigned by parcel post up to 5kg in weight, otherwise goods will be consigned by carrier at goods rate. A packing and carriage charge will be made for all such orders at the rate of £25 (exc. VAT). Orders under £50 (exc. VAT) will not be processed

**Instructions and Labels** Buyer shall ensure that labels, names, reference numbers and marks on Goods and packing materials and cases are not removed altered or covered whilst Goods are in his possession and shall not remove any label or plaque affixed to Goods referring any user thereof to Seller's or any other party's instructions and/or recommendations for use. If any item comprised in Goods is resold by Buyer, Buyer shall bring to the attention of his purchaser all instructions and/ or recommendations for use packed with the Goods or which Seller has otherwise notified to Buyer.

**Damage or Loss in Transit** If price quoted includes delivery, Seller shall repair or replace free of charge Goods damaged in transit or not delivered in accordance with the advice note, provided that in the event of damage or shortage, written notification giving details of such damage or shortage must be sent to Seller within 7 days of receipt, and in the event of non-delivery must be sent to Seller within 14 days of the date shown on the advice note. Order number, advice note and date of despatch are required, and in the event of failure to give notice within the aforementioned period, Goods will be deemed to be in all respects as ordered.

**Returns** Goods supplied in accordance with Buyer's orders cannot be accepted for return without Seller's written consent. If such consent is given, an administration charge will be made. Returned Goods must be sent carriage free and at Buyer's risk and will only be accepted if packed in the original carton which in Seller's opinion is in a saleable condition. Only Goods of current design will be accepted for return.

**Warranty** The following is in lieu of all other warranties and conditions, express or implied, including those of satisfactory quality and fitness for particular purpose. Except as otherwise expressly provided herein, Seller warrants Goods of its manufacture in all material respects to be free of defective materials and faulty workmanship and as conforming to applicable specifications and/or drawings. Seller may, without notice to Buyer, incorporate changes to Goods that do not alter form, fit, or function. Commencing with Seller's date

of shipment, Seller's warranty shall run for a period of 12 months unless specified otherwise by the Seller in writing. Non-complying Goods returned transportation prepaid to Seller will be repaired or replaced, at Seller's option, and return-shipped lowest cost, transportation prepaid. No Goods will be accepted for return without an authorisation number obtained in advance of shipment to Seller. Goods subject to wear and tear or burnout through usage shall not be deemed defective because of such wear and tear or burnout. No warranty shall apply if, in the sole opinion of Seller, the defect or damage was caused by or related to installation, combination with other parts and/or products, modification to or repair of any goods other than by Seller, Buyer's failure to use a software version which is not the latest software version made available by Seller or to apply required or recommended updates or patches to any other software or device in Goods network environment, or resulted from Buyer's acts, omissions, misuse, or negligence. Repaired or replaced goods shall be warranted for the remainder of the unused warranty term or for 90 days from shipment, whichever is longer. Experimental Goods (which may be designated by the letter "X" or "E" beginning their part number identification) or unreleased or beta software are prototype, pre- production items that have yet to complete all phases of release testing; these Goods are sold "AS IS" WITH NO WARRANTY. It is Buyer's responsibility to ensure that Goods are fit for the application in which they are used. Software, if listed on the purchase order and/or quotation and/or used within Goods warranted by Seller, will be furnished on a medium that's free of defect in materials or workmanship under normal use for so long as the hardware and/or system is under warranty. During this period, Seller will replace without charge any such medium it finds defective. As for the quality or performance of any software or data, they are supplied "AS IS" WITH NO WARRANTY. Where hardware and/or a system is installed by Seller, such installation is warranted against faulty workmanship for the same period (if any) as applies to the installed items. During this concurrently running period, Seller will correct without charge any workmanship it finds to be faulty.

If Seller provides any services to Buyer, including but not limited to training or assistance with configuration and installation of Goods, Seller shall provide such services in accordance with normal industry practice at such rates as may be specified by Seller in its price list from time to time. Seller accepts no liability to Buyer arising out of the provision of such services.

**Payments** For UK and Republic of Ireland sales, payment is due within 30 days from the invoice date, unless the parties have agreed a shorter payment period in writing. Partial shipments may be invoiced as they are shipped. Value Added Tax for UK sales is payable and is calculated on the cash discounted value of each invoice. If Seller shall allow provisional credit in respect of any part of the Goods it shall be without prejudice to its rights to refuse to give up possession of any other part of the Goods except against payment: and the whole of the price of all Goods bought or agreed to be bought by Buyer shall fall due and payable without demand immediately on the happening of any of the following events: (a) failure by Buyer to pay any sum due to Seller within 14 days of the due date for payment; (b) commencement of the winding up of Buyer; (c) any act, event or occurrence entitling any creditor of Buyer to petition for the bankruptcy of Buyer; (d) appointment of a receiver of any asset of Buyer, or the levying of any distress or execution or any asset of Buyer. The failure of Buyer to pay any part of the price of the Goods in due time shall, at Seller's discretion, give rise to: (a) The immediate suspension of all pending deliveries, without any prior written notice being necessary; (b) The immediate obligation to pay all sums that are outstanding, regardless of the agreed method of payment (such as by bill of exchange), without any prior written notice being necessary; (c) The application of a late payment penalty, without any prior written notice being necessary to Buyer, equal to 4% per month above the Bank of England base rate applicable at the time calculated by taking into account the number of days between the due date for payment and the date of the effective payment.; (e) The invoicing, as liquidated damages and without any prior written notice being necessary, of a sum equal to 20% of the total amount (exclusive of VAT) of the unpaid invoice.

**Liability** In no event shall either party be liable for (a) any indirect, incidental, consequential loss; (b) any loss arising from business interruption; (c) loss of profits; (d) loss of revenue; (e) loss of use of any property or capital; (f) loss of anticipated savings; or (g) loss of data.

Seller's Liability in respect to any purchase of Goods shall in no event exceed the price of Goods causing loss or damage. These exclusions and limitations shall apply regardless of how the loss or damage may be caused and against any theory of liability, whether based in contract, tort or otherwise. Neither party seeks to exclude or restrict its liability for; (a) death or personal injury resulting from negligence; (b) fraud; (c) the terms implied by section 12, Sale of Goods Act 1979; or (d) any matter which, by law, it is not permitted to restrict its liability.

**Indemnity** Buyer shall indemnify Seller in respect of all damage injury or loss occurring to any person or property and against all actions, suits, claims, demands, charges or expenses in connection therewith arising from the condition or use of the Goods in the event and to the extent that the damage injury or loss shall have been occasioned partly or wholly by the negligence of Buyer and his servants or agents or by any breach by Buyer of its obligations to Seller hereunder.

**Software** Should the Goods purchased by Buyer, or any subsequent update, upgrade, correction or change of revision, include any software, applications or firmware including any related documentation, data files, modules, libraries and elements ("Software") such Software is licensed and not sold. Subject to Buyer's compliance with these terms and conditions, Seller grants a personal, limited, nonexclusive license to use the software solely for Buyer's internal purposes. The license is limited to such goods and/ or location(s) as are specified on Buyer's purchase order for which this instrument serves as either a quotation or acknowledgment. No other use is permitted. Seller retains for itself (or, if applicable, its Sellers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes, without limitation, all rights in patents, copyrights, Trademarks, and trade secrets. Buyer shall not attempt any sale, transfer, sublicense, reverse compilation, disassembly, or redistribution of the software except as expressly permitted herein. Nor shall Buyer copy, disclose, distribute, or display any such software, or otherwise make it available to others (except as Seller authorises in writing) or allow any unauthorized use of the software. If the software is delivered with Goods, Buyer may only transfer its license of the software to a third party in conjunction with the sale by Buyer of the Goods on which the software is installed. Buyer is only entitled to reverse compile the software, to modify, upgrade or alter the software in any other way within the scope of applicable mandatory statutory intellectual property laws. Seller may terminate this license if Buyer defaults under these terms and conditions

**U.K. and Republic of Ireland Sales** For UK and Republic of Ireland sales risk of loss or damage to the Goods shall pass to Buyer at the time of delivery. The property in the Goods shall not pass to Buyer until all sums due or owing to Seller by Buyer on any account have been paid. The whole of the price shall not be treated as paid until any cheque, bill of exchange or other instrument of payment given by Buyer has been met on presentation or otherwise honoured in accordance with its terms. Seller may sue for the whole of the price at any time after it has become payable. Until such time as the property in the Goods passes to Buyer, Buyer shall hold the Goods on a fiduciary basis as bailee of Seller and shall keep the Goods separate from those of Buyer and third parties and properly stored, protected, insured and identified as Seller's property, but Buyer shall be entitled to resell and use the Goods in the ordinary course of its business for the account of Seller. Until property in Goods passes from Seller, the entire proceeds of sale or otherwise of the Goods shall be held in trust for Seller and shall not be mixed with any other money or paid into any overdrawn bank account and shall be at all material times identified as Seller's money. Until such time as property in Goods passes from Seller, Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence, or resold to Seller. If Buyer fails to do so Seller may enter upon any premises owned, occupied or controlled by Buyer where the Goods are situated and repossess the Goods. Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Seller. Without prejudice to the other rights of Seller, if Buyer does so all sums whatever owing by Buyer to Seller shall forthwith become due and payable.

**Trademarks** Buyer acknowledges that Seller is the owner of all rights, title and interest in, and to, any trademarks used by Seller in connection with any products that are subject to any purchase order with

Buyer ("Trademarks"). All goodwill resulting from any use of the Trademarks by Buyer, including any additional goodwill that may develop because of Buyer's use of the Trademarks, shall inure solely to the benefit of Seller, and Buyer shall not acquire any rights in the Trademarks by virtue of its use of the Trademarks as granted herein. Any use of the Trademarks by Buyer must be in strict conformity with Seller's corporate policy regarding trademark usage, which shall be provided to Buyer from time to time. Buyer shall not (i) use the Trademarks for any unauthorised purpose or in any manner likely to diminish their commercial value; (ii) knowingly use any trademark, name, trade name, domain name, logo or icon similar to or likely to cause confusion with the Trademarks; (iii) make any representation to the effect that the Trademarks are owned by Buyer rather than Seller; (iv) attempt to register, register or own in any country: a) the Trademarks; b) any domain name incorporating in whole or in part the Trademarks; or c) any name, trade name, domain name, keyword, social media name or identification or mark that is confusingly similar to the Trademarks; or (v) challenge the validity of Seller's ownership of the Trademarks. Buyer further shall not at any time contest the validity of the Trademarks or assert or claim any other right to manufacture, sell or offer for sale products under the Trademarks, or any trademark confusingly similar thereto. Any trademarks, names or domain names or trademark rights acquired by Buyer in violation of this Agreement shall be immediately assigned to Seller upon request by Seller.

**Export** All orders are accepted subject to a minimum value of £500. All Goods will be supplied and invoiced in multiples of carton quantities only. The basis of the prices quoted will be FOB as defined in Incoterms 2020 Edition, at a UK port which may be nominated by Seller, or such other basis as may seem appropriate to Seller in the circumstances. Payment unless otherwise agreed must be by irrevocable letter of credit confirmed by an established UK bank satisfactory to Seller. Seller has separate standard terms and conditions which apply to export sales, and a copy will be supplied to the export buyers.

**NOVAR ED&S Patents and Registered Designs** Many of the products offered for sale by Seller are covered by UK and foreign patents or other intellectual property rights. It is not feasible to mark each component or product with the appropriate patent numbers, but any relevant and reasonable enquiries will be dealt with on application, subject to reimbursement of Seller's out of pocket expenses. Seller also has rights in a number of names and Trademarks, registered and unregistered. Seller will take all necessary legal action in any part of the world against any party found to be manufacturing, selling or otherwise dealing with any article which infringes Seller's patents, Trademarks or other similar intellectual property rights.

**Force Majeure** If either party is prevented or hindered in fulfilling its obligations (other than the obligation to pay monies when due), either in whole or in part, for a reason beyond its reasonable control (other than lack of funds) ("Force Majeure"), further performance of such obligations shall be suspended for the period of "Force Majeure".

**Legal Construction** The contract shall be governed by and interpreted in accordance with English Law, and Buyer submits to the jurisdiction of the Courts in England. However, Seller may enforce the contract in any court of competent jurisdiction. A person who is not a party to the contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

**Assignment** Buyer will not delegate, transfer, or assign, by operation of law or otherwise, the Agreement, or rights or obligations under it, without Seller's prior written consent and any attempt to do so is void. Seller may assign, transfer, subcontract or otherwise dispose of any of its rights and/or obligations to any person at any time without the consent of Buyer.

**Buyer's Obligations Relating to Cybersecurity Event** In order to facilitate Seller's investigation of any cybersecurity event involving the Goods or Software, Buyer agrees to cooperate with Seller in any investigation, litigation, or other action, as deemed necessary by Seller to protect its rights relating to a cybersecurity event. Seller does not represent that the Goods or Software is compatible with any specific third-party hardware or software other than as expressly specified by Seller. Buyer is responsible for providing and maintaining an operating environment that meets the minimum standards specified by Seller.

Buyer understands and warrants that Buyer has an obligation to implement and maintain reasonable and appropriate security measures relating to the Goods or Software, the information used therein, and the network environment. This obligation includes complying with applicable cybersecurity standards and recommended industry practices including those recommended by any national institution in Buyer's territory. If a cybersecurity event occurs, Buyer shall promptly notify Seller of the cybersecurity event. Buyer shall promptly use its best efforts to detect, respond and recover from such a cybersecurity event. Buyer shall take reasonable steps to immediately remedy any cybersecurity event and prevent any further cybersecurity event at Buyer's expense in accordance with applicable laws, regulations, and standards. Buyer further agrees that Buyer will use its best efforts to preserve forensic data and evidence in its response to a cybersecurity event. Buyer will provide and make available this forensic evidence and data to Seller. Seller shall not be liable for damages caused by a cybersecurity event resulting from Buyer's failure to comply with these terms or Buyer's failure to maintain reasonable and appropriate security measures. Buyer agrees to comply with all applicable data security laws and standards and shall make no attempts to circumvent or interfere with any of Seller's security controls integrated within the Goods. Buyer shall indemnify and hold Seller harmless for Buyer's failure to comply.

### **Health and Safety at Work etc. Act 1974. Statement to purchasers and prospective purchasers**

1. Section 6\* of the Act provides that manufacturers, designers, importers or suppliers of articles for use at work have a duty to ensure, so far as is reasonably practicable, that the article will be safe and without risk to health at all times when it is being set, used, cleaned or maintained by a person at work. An absence of safety or risk to health is to be disregarded insofar as the case in or in relation to which it arises is shown to be one the occurrence of which could not reasonably be foreseen and in determining whether any such duty as aforementioned has been performed, regard shall be had to any relevant information or advice which has been provided by the manufacturer, designer, importer or supplier.

2. Having regard to these provisions the following is given as a guide to the information which is readily available to you, in order that the obligations of all concerned may be met as fully as is reasonably practicable. This information relates to those products detailed in the Seller's catalogue(s) or associated literature.

3. Information on the design, construction and installation of the Seller's products to ensure that so far as is reasonably practicable they are safe and without risk to health when properly used may be found in: – Regulations for Electrical Equipment of Buildings (published by the Institution of Electrical Engineers), Catalogues and product leaflets of the Seller, or may be obtained by specific request to the Seller.

4. It is important that the products concerned should be installed, commissioned and maintained by, or under the supervision of competent persons in accordance with good engineering practice and – The Regulations for the Electrical Equipment of Buildings, Codes of Practice, Statutory Requirements and any instructions specifically advised by the Seller and where appropriate, with particular reference to information marked on the Goods or associated literature.

5. In accordance with the provisions of the Act, the Buyer is therefore requested to take such steps as are necessary to ensure that any appropriate information relevant to the Seller's products is made available by you to anyone concerned. \* As amended by section 36 of the Consumer Protection Act 1987.

**Miscellaneous** The parties may exchange confidential information during the performance or fulfilment of any purchase order. Confidential information includes any information or data that are provided by one party (the disclosing party) to the other party (the recipient) in any form, including any information or data relating to the operation or performance of products and all data generated by the products which are aggregated and de-identified. However, such information or data may be used by Seller in accordance with Section 20b) below. All confidential information shall remain the property of the disclosing party and shall be kept confidential by the recipient for a period of 10 years following the date of disclosure. These obligations shall not apply to information which is: (a) publicly known at the time of disclosure or becomes publicly

known through no fault of recipient, (b) known to recipient at the time of disclosure through no wrongful act of recipient, (c) received by recipient from a third party without restrictions similar to those in this section, or (d) independently developed by recipient. Each party shall retain ownership of its confidential information, including without limitation all rights in patents, copyrights, Trademarks and trade secrets. A recipient of confidential information may not disclose such confidential information without the prior written consent of the disclosing party, provided that Seller may disclose confidential information to its affiliated companies, employees, officers, consultants, agents, and contractors. Subject to compliance with all applicable data protection laws and regulations, Seller retains the right to utilise any and all data and information that is collected, generated, processed or transmitted by or through the products and all product related data and information provided or transmitted to Seller regarding the operation or performance of the products in an aggregated or anonymised form for any business purpose, including product, software or service development, marketing or sales support or other analytics. To the extent that Seller does not own any such product related information or data, Buyer grants Seller and its affiliated companies (or shall procure for Seller and its affiliated companies the grant of) a perpetual right to use and make derivative works from such information and data for any lawful purpose.

Seller will process Buyer's personal data, including but not limited to identity data such as names and email addresses as necessary to sell the products and/or to provide the services to Buyer and to meet Seller's obligations under any purchase order and applicable law as a data processor. Seller shall process Buyer's personal data during the period of performance of any Buyer's purchase order governed by these terms and conditions and thereafter. Buyer as data controller acknowledges and agrees that Seller is entitled to share personal data with its affiliated companies and may transfer the personal data to countries outside of the European Union ensuring adequate level of personal data protection, including but not limited to USA, India and Mexico.

If Seller is delayed at any time in performing its obligations under this Agreement by: (i) any event of Force Majeure; (ii) a change in law, statutory requirements or building regulations implemented after the date of the proposal; (iii) any breach of the agreement or act of prevention by Customer or others for whom Customer is responsible; (iv) and instruction of Customer or others for whom Customer is responsible; (v) any consequence whatsoever which arises as a result of the outcome of the United Kingdom European Membership Referendum on 23rd June 2016 and/or any subsequent referendum which may take place; or (vi) the discovery of hazardous substances or asbestos at the premises; then the time for performance of the obligations affected will be extended by such period of delay.

If Seller incurs any direct loss and/or expense because the progress of performance of its obligations under the Agreement is affected by any matters described above, the amount of any such direct loss and/or expense shall be added to the price.

The rights described above are without prejudice to any other rights or remedies which Seller may possess.

**Novar ED&S Limited**, The Arnold Centre, Paycocke Road, Basildon, Essex SS14 3EA

**MK Trademark.** Registered in Great Britain and other countries 'MK' are the initials of 'Multy-Kontakt' – a name coined to signify 'many points of contact' the salient feature of our pioneer spring grip socket patented in 1919.

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