



Terms and Conditions

1. Definitions

In these Conditions of Sales unless the context otherwise requires:

The Seller, "NIVUS" shall mean NIVUS GmbH whose registered office is Im Täle 2, 75031 Eppingen, Germany.

The "Purchaser" shall mean the person or company to whom NIVUS sells the Goods (as defined below).

The "Contract" shall mean a contract for the supply of the Goods subject to these conditions created either on written acceptance by the Purchaser of the quotation from NIVUS within the validity period specified on the quotation.

"WEEE" shall mean waste electrical and electronic equipment as defined in the WEEE regulations. "WEEE Regulations" shall mean The Waste Electrical and Electronic Regulations 2006 (SI 2006/3289).

2. Intention

Unless NIVUS expressly agrees in writing to the contrary these Conditions of Sale represent the only terms on which NIVUS will sell the Goods and will apply instead of any set of standard terms or conditions on or attached to or otherwise forming part of the order form of the Purchaser or any other document of the Purchaser relating to the goods.

3. Creation of Contract

On request by the Purchaser, NIVUS will issue a quotation giving prices and a programme for delivery of the Goods. Within the valid period specified on any quotation the Purchaser may accept such quotation by written acceptance to NIVUS or by placing a purchase order referring to such quotation unless NIVUS has prior to the date of receipt of such acceptance or order withdrawn the quotation.

4. Price

Unless otherwise agreed between the parties the price of each item of the Goods shall be as stated in NIVUS's quotation but NIVUS reserves the right to change the quoted price by giving notice to the Purchaser at any time before dispatch.

5. Payment

If there is any query on the invoice, notification is required within 14 days of date of invoice. Payment of the Goods shall be made in full by the Purchaser within 30 DAYS FROM DATE OF INVOICE.

BAC's payments and transfers are the only acceptable payment method and shall be deposited not later than the due date of payment into the bank account of NIVUS. Bank details are available on request.

Unless otherwise agreed, all payments to NIVUS shall be made in EURO. All payments shall be made without any withholding, set-off or deduction whatsoever. If any sums payable by the Purchaser are not paid by the specified date of payment NIVUS reserves the right to charge the Purchaser interest calculated on a daily basis after, as well as before any judgement on any outstanding sums for the period for which such sums remain outstanding after the specified date of payment. Interest payable shall be calculated at a rate per annum equivalent to the Base Lending Rate of the German Federal Bank plus 4 %.

All payments due under this Clause 5 shall only be deemed to have been made when cleared or Goods value funds have been received by NIVUS and credited to the account specified.

6. Delivery

Delivery of the Goods shall be ex works. All charges for post and packing will be charged to the Purchaser. Arrangements will be made with a suitable carrier or as specified by the Purchaser for delivery to the Purchaser's address on the date specified. The Purchaser shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

7. Warranty and Liability

NIVUS warrants that it will, at its option, replace, repair or refund products supplied by NIVUS in which, under proper use, defects appear, subject to the claim being made in writing to NIVUS within 12 months after despatch or such other period as may be indicated by NIVUS for specific Goods from time to time, provided that the Goods or parts to which the claim relates are returned to NIVUS within that period suitably packaged and carriage paid and, where relevant, in accordance with any particular instructions which NIVUS may have notified to the Purchaser at the time of supply. Returned Goods or parts must be accompanied by an advice note stating the original invoice number in respect of the Goods and the nature of any claimed defect, together with such further information as NIVUS may stipulate. In cases where the Goods are replaced, the returned Goods shall become the property of NIVUS. This warranty shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the Goods except any implied by law which by law cannot be excluded.

NIVUS shall be under no liability whatever to the Purchaser for any indirect loss and/or expense (including loss of profit) suffered by the Purchaser arising out of breach by NIVUS

of the Contract. In the event of any breach of this Contract by NIVUS the remedies of the Purchaser shall be limited to damages. Under no circumstances shall the liability of NIVUS exceed the price of the Goods. NIVUS shall not be liable for any loss or damage whatever due to failure by NIVUS to deliver the Goods (or any part of them) promptly or at all.

8. Quality Statement

NIVUS is registered by DIN EN ISO9001. Where the Goods fall within the scope of registration they will be manufactured under the Quality Assurance Certificate held by NIVUS.

9. Copyrights & Patents

Goods offered for sale by NIVUS are subject to any patent, trade mark, registered design, copyright, topography right or other right of any person.

10. Force Majeure

If NIVUS is hindered or prevented from performing any contract owing to any cause beyond reasonable control of NIVUS or by its inability to procure services, materials or articles required for the performance of the contract except at enhanced prices, NIVUS may at its sole option delay the performance of or cancel the whole or any part of the contract and shall not be held responsible for such delay or cancellation or any inability to deliver.

11. Choice of Law

All contracts between NIVUS and the Purchaser shall be governed by and interpreted in accordance with German Law and the Purchaser submits to the jurisdiction of the Supreme Court of Justice in Germany. NIVUS may enforce any such contract in any court of competent jurisdiction.

12. Retention of Title

The Goods shall remain the property of NIVUS until payment in full by the Purchaser to NIVUS. All tooling and software used to carry out the Contract shall remain the property of NIVUS at all times and shall not pass to the Purchaser with title to the Goods.

13. Repair Conditions

NIVUS provides a repair facility in relation to the Goods with a corresponding charge when they are not eligible for claims under warranty, whether by reason of the time elapsed since purchase or for some other reason.

This service is subject to availability of parts and is only available if the Goods have not suffered excessive physical or electrical damage and are free from modifications other than those undertaken by NIVUS at the request of the Purchaser. Such goods are accepted by NIVUS for repair subject to the following conditions:

- 13.1. NIVUS may at its absolute discretion either repair Goods which it accepts for repair or replace them with substitute Goods.
- 13.2. In house turn round target in respect of Goods accepted by NIVUS for repair is 10 working days from receipt to dispatch, but NIVUS shall be under no liability if it fails to comply with such target.
- 13.3. Any part of any substitute Goods supplied by NIVUS under this service is supplied subject to the Conditions of Sale current at the date that the repaired or substituted Goods are dispatched by NIVUS, save that any warranty claims made in respect of any such Goods must be made within 12 months of the date of the invoice in respect of the repair, or such other periods as may be indicated by NIVUS for specified Goods from time to time.
- 13.4. NIVUS warrants that it will at its option rectify defective repair work performed under this facility or supply to the Purchaser free of charge substitute Goods in place of the defectively repaired Goods subject to the Purchaser submitting to NIVUS both a written claim specifying the defect and the repaired Goods in question being received by NIVUS within 12 months of the date of the invoice in respect of the repair or such other periods as may be indicated by NIVUS for specific Goods from time to time. This warranty shall be in lieu of any warranty or condition implied by law relating to repair work under this repair facility except any implied by law which cannot by law be excluded.
- 13.5. Save as provided in clause 13.4 above, NIVUS shall not be under any liability whether in contract, tort or otherwise and whether or not resulting from the negligence of NIVUS or of its employees, agents or sub-contractors in respect of defective repair work or for any damage or loss resulting therefrom or from the failure to give advice or information or the giving of incorrect advice or information.
- 13.6. In no event shall any breach of contract on the part of NIVUS, or tort (including negligence) or failure of any kind on the part of NIVUS or of its employees, agents or sub-contractors give rise to any liability for loss of revenue or any consequential or indirect loss of damage arising from any cause whatsoever.
- 13.7. NIVUS's liability (if any) whether in contract, tort or otherwise in respect of any matter arising from or in connection with the repair facility for Goods or of any duty owed to the Purchaser in respect thereof shall be further limited to the value of the part repaired.
- 13.8. Repair charges are subject to VAT at the rate current at the time of invoice.

14. WEEE

The Purchaser shall:

- 14.1. Be responsible for financing the collection, treatment, recovery and environmentally sound disposal of:
 - 14.1.1. All WEEE arising or deriving from the Goods, and
 - 14.1.2. All WEEE arising or deriving from Goods placed on the market prior to 13th August 2005 where such Goods are to be replaced by the Goods and the Goods are of an equivalent type of are fulfilling the same function as that of such Goods;
- 14.2. Comply with all additional obligations placed upon the Purchaser by the WEEE Regulations by virtue of the Purchaser accepting the responsibility set out in clause 14.1; and
- 14.3. Provide the Purchaser's WEEE compliance scheme operator with such data, documents, information and other assistance as such scheme operator may from time to time reasonably require to enable such operator to satisfy the obligations assumed by it as a result of the Seller's membership of the operator's compliance scheme.
- 14.4. The Purchaser shall be responsible for all costs and expenses arising from and relating to its obligations in clause 14.
- 14.5. Further information in respect of the arrangements set out in clause 14 can be found at www.electrolink.eu.com by clicking on the 'WEEE FINAL USERS' button and quoting WEEE registration number WEE/HE0060TU where prompted.