

# HARMAN TERMS AND CONDITIONS OF SALE

## 1 DEFINITIONS

In these Conditions, where applicable:

- 01 "Affiliate" is an entity that directly, or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, another entity within the respective group of companies.
- 02 "Buyer" is the purchaser of Product, and where the Buyer consists of more than one person, means each person jointly and severally.
- 03 "Conditions" means these Terms and Conditions of Sale, as amended from time to time.
- 04 "Control" means the power, directly or indirectly, to direct or cause the direction of the management and/or business policies of a business, whether through the ownership of stock, or by more than 50% of the voting shares, or substantially all of the assets of the business, by contract, or by any other method.
- 05 "Confirmation" is Seller's written confirmation of sale.
- 06 "Consumer" means a person who is not a Buyer of the Product in course of the Buyer's business or profession, and who is protected by consumer protection legislation applicable to the sale.
- 07 "Delivery", in relation to Products, is the passing of possession from the Seller to the Buyer or to a party on behalf of Buyer or to an independent carrier for delivery to Buyer; and in relation to services is their performance. References to Delivery include part delivery.
- 08 "Interest" is the rate of 1.5% monthly (or highest rate permitted by applicable law, whichever rate is lower), compounded half yearly.
- 09 "Insolvency" means the inability of the Buyer to pay its debts as they fall due, the suspension of making payments on any of the Buyer's debts or the Buyer commencing negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness and/or the value of the assets of the Buyer is less than its liabilities and/or a moratorium being declared in respect of any indebtedness of the Buyer and/or the Buyer becoming subject to insolvency proceedings (including but not limited to the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer) or any analogous procedure or step is taken in any jurisdiction in respect of the Buyer.
- 10 "Manufacturer" comprises any supplier of Product.
- 11 "Notice" means notice in writing; "notify" has a corresponding meaning. "Writing" includes any written telecommunication.
- 12 "Order" means a written purchase order issued by Buyer to Seller for the purchase of Products.
- 13 "Person" means any individual, firm, partnership or other body corporate or incorporate and any governmental or supranational authority.
- 14 "Price" means the prices set forth in Seller's price list in force as of the date that Seller accepts an Order; and in the case of part delivery means the part of the Price corresponding to the Product delivered.
- 15 "Product" is the goods and services supplied by Seller and, where appropriate, include accompanying or related literature and packaging.
- 16 "Sale" includes rental and other disposal for value of any right or interest in Products, and supply of Services, and references to Seller and Buyer have a corresponding meaning.
- 17 "Seller" is Harman International Industries Incorporated or its Affiliate, as indicated by the Confirmation or invoice.
- 18 "Taxes" means all applicable duties, taxes, imports, fees and deposits charged by authority of law upon the importation or sale of Product.
- 19 Words and phrases defined in the current edition of Incoterms (Incoterms 2010 as published by the International Chamber of Commerce in Paris) shall have the same meaning in any Sale.
- 20 Genders are interchangeable and the singular number includes the plural.

## 2 FORMATION OF CONTRACT

01 All Orders are subject to Confirmation by Seller. There is a binding contract, based on these Conditions, between Seller and Buyer upon Delivery or Confirmation ("Contract").

02 These Conditions are the only terms which govern the sale of the Product; provided, however, if Buyer and Seller have executed a written agreement signed by both parties covering the sale of the Products, the terms and conditions of said agreement shall prevail to the extent they are inconsistent with these Conditions. A Confirmation, incorporating these Conditions except as expressly stated otherwise therein, shall be presumed to contain the correct and entire terms of the Contract unless Buyer within ten (10) days after dispatch or the Confirmation notifies Seller of any error. Seller is unable to consider, and its sales personnel will not read,

any standard purchasing conditions of Buyer. Any other terms, in particular, Buyer's standard terms and conditions are incorporated only if, and to the extent that, Seller expressly confirms their application to Buyer in writing. All future sales are subject to these Conditions or such subsequent updated Conditions as Seller may issue to Buyer from time to time.

03 Seller retains the copyright and all other rights in its sales and user literature, and in all quotations and prices, none of which may be copied or used for purposes other than those for which they have been provided to the Buyer or prospective buyer. All computer software, product designs and other intellectual property in Product remain the property of Seller or of Seller's suppliers, and may be used only in the proper operation of Seller's Product. Unless, and only to the extent that, Seller first confirms in writing to Buyer that information is the confidential property of Buyer, all information supplied to Seller by or for the Buyer shall be deemed to be in the public domain. If Product is made to the design or specification of Buyer, then Buyer warrants that such Product can be made free from any third party objection or claim, and that Buyer will not claim any rights over processes or know-how disclosed to Seller for the manufacture of the Product.

04 Seller may make partial deliveries provided that each part shall be capable of use or resale on its own; each such partial delivery shall be accepted and paid for as if it had been performance of a separate order.

05 Unless otherwise expressly stated in the Order and the corresponding Confirmation, delivery dates are indicative only and therefore non-binding. At any time after the contractual or indicated delivery date, Buyer may serve on Seller such notice as is reasonable in the circumstances (but in any event of not less than sixty one (61) days) making time to deliver of the essence of the Contract; Seller may, within twenty one (21) days after receiving Buyer's notice, by counter-notice to Buyer rescind the Contract or any severable part of Contract, and in such case shall have no further liability to Buyer on the rescinded Contract or part, except to return the Price or due proportion thereof.

06 Catalogues, price lists and other sales literature, and information given on behalf of the Seller (whether written or oral) are for general information only and are not incorporated in the Contract to be regarded as representation on the basis of which the Sale is made, except as may be expressly stated in the Order and the corresponding Confirmation. Unless otherwise expressly stated in the Order or in the Confirmation, variations in the design, specification, performance, characteristics and/or appearance of Product are permitted, provided that Product supplied shall be of substantially equivalent nature and value.

07 All Products are (unless otherwise expressly stated in the Confirmation) shipped from Seller's warehouse; packing, freight and, if the Buyer so requests or Seller considers appropriate, insurance will be charged to Buyer at cost.

08 All prices are exclusive of Taxes; Buyer will in addition to the Price, pay all Taxes at applicable rates and interests; and references herein to payment of the Price to Seller include payment to Seller of Taxes for which Seller is accountable.

09 Unless otherwise expressly stated in the Order and the corresponding Confirmation, all Orders for standard Product are accepted upon the basis that the list Price of Product is increased or decreased between the date of the Confirmation and Delivery; an appropriate adjustment to the Price will be made by Seller.

10 The applicability and extent of a manufacturer's warranty is determined by mandatory statutory law, or as may, in Seller's sole discretion, be stated in writing by Seller to Buyer. Such warranty shall be in substitution for, and in exoneration of, all other liability of Seller and manufacturer for defective Products. Seller, when not the manufacturer, contracts as agent of the manufacturer for the purposes of this paragraph. Where repairs or replacements are undertaken with the benefit of the aforementioned warranty, the terms of this paragraph shall apply to the repair or replacement thereof. In the case of a Consumer sale, this paragraph is subject to any overriding provisions of law at the place where the Product is intended by Seller to be sold to a Consumer.

11 Except where otherwise provided by a provision of law which cannot be excluded by contract, Product is sold, and each distributor or dealer for Product undertakes that Product will be resold by it, subject to the condition that in relation to any claim properly made by the Buyer or any third party, whether in contract or otherwise (except any claim for death or personal injury caused by negligence for which the person against whom the claim is made is responsible), the liability of Seller and of each Manufacturer to Buyer and any third

party shall not exceed the Price of the Product that is the subject of the claim; and in any event the Seller or any Manufacturer shall not be liable for any economic loss or for consequential losses. Neither Seller nor Manufacturer shall be responsible for, or for the consequences of repairs undertaken by Buyer, or third parties.

12 Seller is not liable for a delay, defect or omission resulting from acts of God, acts of any national, supranational or public authority, industrial disputes, unavailability or delay in supply of materials or labor on normal commercial terms, or any other matter, whether or not like nature, which is wholly or partly outside the control of Seller.

13 Buyer shall comply with, and render all necessary assistance and cooperation to Seller to ensure that Seller is in compliance with, all federal, state, local, and other governmental laws, ordinances, rules, and regulations applicable in connection with the sale, use, service, shipment, or disposal of any Product, and in connection with the performance of Buyer's duties and activities under the Contract, including, without limitation, compliance with required government permits and approvals, export control regulations, customs requirements, laws and regulations with regard to warranties, the United States Foreign Corrupt Practices Act, UK Bribery Act, and laws, orders and regulations administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury. Buyer shall advise Seller promptly of any information that may come to its attention concerning charges, complaints or claims about Buyer, Seller, or the Products by customers, other persons, or governmental bodies or agencies.

## 3 POSSESSION AND TITLE, PAYMENT, CREDIT, NOTICE OF CLAIMS

01 Risk in the Products in respect of each shipment shall pass to Buyer upon Delivery, irrespective of the Delivery method and which party secures the shipping contract. The Buyer shall obtain adequate insurance to cover the Price of Products effective from the time of Delivery.

02 Immediately upon receipt of Products by Buyer or the Buyer's designated recipient, Buyer shall examine and test the Products and, as a condition precedent to any claim by Buyer, shall give timely notice to Seller; and to the carrier if applicable, of any missing or defective Product. Buyer shall be deemed to have accepted Product unconditionally unless notice of complaint is given by Buyer to Seller within fifteen (15) days after Delivery of the Product to which the complaint relates.

03 Delivery shall be deemed to be complete and payment shall not be withheld or delayed notwithstanding that items may remain to be delivered. No payment shall be withheld or delayed by reason of any claim, counterclaim or set-off, unless unconditionally confirmed and quantified in writing by Seller to Buyer or by final court judgment.

04 Seller may issue its invoices on paper or electronically, and both types of invoices will be equally effective. Products are sold upon the terms that full payment of the Price and Taxes as stated on the invoice will be made by the Buyer to the Seller's bank account on or before Delivery, unless otherwise expressly agreed in writing by Seller and Buyer. Payment is deemed to have been made when the whole Price, and any Taxes for which Seller is accountable, have been received by Seller in cash or by unconditional credit to Seller's account at a bank and branch designated by Seller. The Buyer will pay interest on amounts due and unpaid.

05 Time of payment is of the essence. All payments to Seller shall be made in the currency specified by Seller. Any currency conversion calculations shall be made based on such generally recognized index identified by Seller from time to time. If it appears to Seller, in Seller's sole discretion, that there is doubt for any reason (whether or not related to the financial circumstances of Buyer) that payment of Price and Taxes will be made for all or any of the Order in full on the due dates, Seller may, notwithstanding any terms for payment otherwise agreed in the Contract, require by notice to Buyer that immediate payment be made or unconditionally secured to the satisfaction of Seller, and if payment is not made or secured to the satisfaction of Seller within seven (7) days after such notice, Seller may in its discretion and without prejudice to Seller's claim for damages for breach of contract, without further liability to the Buyer suspend work on the whole or any part of the Contract and/or at any subsequent time terminate the same. Seller may accept as security for payment an unconditional guarantee by, or a transferable and divisible letter of credit drawn on or confirmed by, a bank acceptable to Seller in its sole discretion.

06 If the Seller grants credit to the Buyer, such credit is a separate agreement and shall not be a condition of the Sale. Seller may at any time reduce, suspend

or withdraw credit facilities to Buyer without stating any reason; in particular, Seller may withdraw credit if Buyer, or any of the Buyer's group or other person with whom Buyer is associated, has committed or threatens to commit any breach of contract with the Seller or any Affiliate or associate of the Seller or appears likely to become insolvent.

07 Buyer grants to Seller a security interest in all Products Seller sells to the Buyer and all sales proceeds of Buyer with respect to such Products, in order to secure payment of amounts due to Seller; but shall be permitted to sell and transfer title to Products in the normal course of business. Upon Seller's request, Buyer will execute any and all documents that may be necessary to perfect such security interest. To the extent that Buyer retains any security interest in any Product, Buyer authorizes Seller to recover Products in Buyer's name from any subsequent purchaser. Buyer authorizes Seller to collect the proceeds of any resale made by Buyer as agent for Seller; to give a good receipt and to retain for Seller's own account all monies payable by Buyer. Buyer will give or procure for Seller and its agents free access to premises and equipment in which Seller's Products, and all accounts and records relating to the resale of the Products, are stored, and will without charge to Seller procure that its servants and agents render such assistance as Seller may reasonably require to give effect to these provisions. Seller will account to Buyer for any surplus collected from subsequent purchasers, less costs of collection, above the monies owed by Buyer to Seller. If it becomes necessary for Seller to initiate collection efforts or institute legal proceedings to collect sums owed by Buyer, Buyer shall be responsible for all attorneys' fees and collections costs incurred by Seller in connection with such efforts or proceedings.

08 No returns or exchanges are allowed without Seller's prior express written authorization. Product returns are subject to a restock fee according to Seller's policies then in effect.

## 4 GENERAL

01 Buyer shall not without the prior written consent of Seller assign or encumber its rights under the Contract.

02 Seller may subcontract all or part of its obligations under the Contract without Buyer's consent.

03 If any term of the Contract or these Conditions should under the applicable law be or become unlawful or unenforceable, the validity and enforceability of the other provisions of the Contract and these Conditions shall not be affected. The Contract shall be performed in such lawful manner as shall most nearly achieve the like objectives of the Contract.

04 Subject to clause 2.2, this Contract shall be governed by and construed in accordance with the laws of the State of New York, United States of America, excluding its conflicts of law principles and excluding the U.N. Convention on the International Sale of Goods. In the event of any dispute, Buyer: (a) submits to the exclusive general jurisdiction of the state and federal courts of the Borough of Manhattan, New York City, New York, U.S.A. and the parties waive any objection to venue in such courts in any legal action or proceeding relating to this Contract and any decision thereof; and (b) consents that any such action or proceeding may be brought in such courts.

05 All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in these Conditions a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this section.

06 Provisions of these Conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Conditions and any Contract including, but not limited to, the following provisions: 2.03, 2.13, 4.04, and 4.06.

# HARMAN WARRANTY POLICY

## 1 APPLICATION

01 This Warranty Policy sets forth the standard warranty terms applicable to the Martin branded Product(s) purchased from Harman International Industries Incorporated or its Affiliate ("Seller"), as indicated by the Confirmation or invoice.

02 This Warranty Policy is intended to supplement the applicable Terms and Conditions of Sale.

03 Unless the context otherwise requires, capitalised words and expressions contained in this Warranty Policy shall have the meaning as given in the applicable Terms and Conditions of Sale.

## 2 WARRANTY TERMS

01 Subject to the terms of this Warranty Policy, Seller warrants as follows:

(a) All Finished Products will be free from defects in materials and workmanship under normal use of the Products in the industry for a period of twenty-four (24) months from the Delivery and spare parts will be free from defects in materials and workmanship under normal use of the spare parts in the industry for a period of three (3) months from the Delivery. Seller warrants to able to deliver spare parts for the Finished Products only for the duration of the warranty period stated in this Clause.

(b) Used Products certified as such by Seller prior to Sale of such Used Products, will be free from defects in materials and workmanship under normal use of such Products in the industry for a period of ninety (90) days from Delivery. No warranty will apply to Used Products which are not certified by Seller prior to Sale of such Used Products.

## 3 WARRANTY CLAIMS AND PROCEDURES

01 Any warranty claim by the Buyer based on any defect in Finished Products or spare parts shall be notified upon Delivery as provided under the Terms and Conditions of Sale or, where the defect could not reasonably have been discovered during the examination of the Products at the time of Delivery within seven (7) days after manifestation of the defect, failing which Buyer shall be deemed to have accepted the Finished Products or spare parts as non-defective. Warranty claims notified by the Buyer to Seller after the expiration of the warranty terms stated in provision 2.01 are not accepted.

02 Where any valid warranty claim is notified to Seller in accordance with the terms of provisions 2.01 and 3.01 and approved by Seller in writing (which approval shall not be

unreasonably withheld), Seller shall fulfil its warranty obligations as follows:

(a) If the Buyer reasonably can be expected to be able to repair the defect, if necessary with support from Seller's Technical Support and Service department, Seller may fulfil its warranty obligations by sending the necessary replacement parts to the Buyer free of charge;

(b) If the Buyer cannot reasonably be expected to be able to repair the defect, Seller shall repair or replace the defective Finished Products or spare parts, subject to the Buyer returning and thereby assigning to Seller all property rights to such Finished Products or spare parts that are to be replaced by Seller; the replacement Products or spare parts will be a) equivalent or substantially similar to the Finished Products or spare parts and b) new, equivalent to new or re-conditioned; or

(c) If none of the foregoing remedies are commercially viable in Seller's sole judgment, Seller may opt instead to refund to the Buyer the net purchase price paid by the Buyer for the defective Finished Products or spare parts less reasonable depreciation of the value of such Product or spare parts due to use or age, subject to the Buyer assigning to Seller all property rights to such Finished Products or spare parts. The Buyer shall, within ten (10) days of the defective Finished Products or spare part being replaced, enquire at Seller, whether the Buyer should return to Seller such defective Finished Products or spare parts or destroy same and may not return such Finished Products or spare parts to Seller, unless Seller has authorized the return in writing in accordance with provision 3.08 of the Terms and Conditions of Sale.

03 Seller shall assume all responsibility and expense for freight and freight insurance, unless the warranty claim is not valid in Seller's reasonable judgment and Buyer shall assume all responsibility and expense for dismantling, removal, re-installation and duties in connection with the foregoing.

04 Repair or replacement under the warranties contained herein does not interrupt or extend the warranty terms stated in provision 2.01.

## 4 EXCLUSIONS AND LIMITATIONS

01 The warranties contained herein shall not extend to any Finished Products or spare parts from which any serial number has been removed or which have been damaged or rendered defective

(a) as a result of normal wear and

tear, wilful or accidental damage, negligence, misuse or abuse;

(b) due to water or moisture, lightning, windstorm, abnormal voltage, harmonic distortion, dust, dirt, corrosion or other external causes;

(c) by operation outside the specifications contained in the user documentation;

(d) by the use of spare parts not manufactured or sold by Seller or by the connection or integration of other equipment or software not approved by Seller unless the Buyer provides acceptable proof to Seller that the defect or damage was not caused by the foregoing in this subsection d);

(e) by modification, repair or service by anyone other than Seller, who has not applied for and been approved by Seller to do such modification, repair or service unless the Buyer provides acceptable proof to Seller that the defect or damage was not caused by the foregoing in this subsection e);

(f) due to procedures deviating from procedures specified by Seller; or

(g) due to failure to store, move, transport, install, test, commission, maintain, operate or use such Finished Products or spare parts in accordance with Seller's instructions, in a safe and reasonable manner or in a manner that does not provide at least the degree of protection afforded by Seller branded storage, transportation and installation equipment, including but not limited to transportation cases and folding transportable rigs, in terms of shock absorption and protection from vibration for the Finished Product and all its components, impact protection, ingress protection, protection from unfavourable environmental conditions, thermal insulation and strength. All approvals and certifications related to the Products are related to a single Product and not a group of products used together.

02 None of the warranties contained herein shall apply to such Finished Products or spare parts which are sold "as is", as "second-hand", as "used", as "demo" or under similar qualifications or to Consumables as defined in this provision 4.02. For the purposes of this provision 4.02, "Consumables" is defined as any part(s) of any Products or part(s) for use with any Products, which part(s) of Products or part(s) for use with Products are consumed during the operation of the Products and which part(s) of Products or part(s) for use with Products require replacement from time to time by a user such as, but not limited to, light bulbs and smoke fluid. Seller will provide information on Consumables upon request from

the Buyer.

03 None of the warranties contained herein shall apply, unless the total purchase price for the defective Finished Products or spare parts has been paid by the due date for payment.

04 The warranties contained herein apply only to the Buyer as original purchaser of the Finished Products and are not assignable or transferable to any subsequent purchaser or end-user.

05 Seller's warranty obligations, and the limitations and conditions associated with those obligations, will be governed by the Warranty Policy and the Terms and Conditions of Sale unless otherwise agreed in writing by Seller.

06 BUYER SHALL HAVE NO OTHER REMEDIES IN CONNECTION WITH DEFECTIVE FINISHED PRODUCTS OR SPARE PARTS THAN THE RIGHTS GRANTED PURSUANT TO THE TERMS AND CONDITIONS OF SALE AND THIS WARRANTY POLICY. EXCEPT AS SET FORTH IN THE EXPRESS WARRANTIES CONTAINED HEREIN AND THE TERMS AND CONDITIONS OF SALE, SELLER MAKES NO CONDITIONS, WARRANTIES, REPRESENTATIONS, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING OUT OF USAGE OR TRADE, ALL OF WHICH ARE EXPRESSLY EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW.

## 5 GENERAL

01 The terms, rights and obligations under the Terms and Conditions of Sale shall not be affected or impaired by the execution, delivery and performance of the warranty, except in the manner and to the extent stated in this Warranty Policy.

02 The invalidity, unenforceability or illegality of any term, condition or stipulation in this Warranty Policy shall not affect the validity, enforceability or legality of the remaining terms, conditions and stipulations of this Warranty Policy and/or the applicable Terms and Conditions of Sale.