

CONDITIONS OF PURCHASE

1. INTERPRETATION

In these conditions the following expressions shall have the meanings set opposite them :

Equipment – means all that Equipment, apparatus, machinery, materials, spare parts, and articles (if any), detailed in the Order, to be provided by the Vendor to us or our nominee pursuant to the Contract.

Goods – means the Equipment (if any), the Services (if any), the System (if any) and the Software (if any) supplied to us by the Vendor under the Contract.

Contract – means an accepted Order for the supply of the Goods detailed or referred to in the Order.

Delivered and/or Delivery – means delivered duty paid to such of our premises as we shall specify. Delivered duty paid shall have the meaning specified in Incoterms 2010.

Order – means that the last document or documents issued (which in the event of any uncertainty shall be determined by reference to the date stated on such document) by us to order, or accept the Vendor's offer for the Goods. The Order is issued, and the Goods will be supplied, upon these Conditions only.

Conditions – means these terms and Conditions which together with the Order and any documents referred to in the Order constitute the entire Contract for the supply of the Goods.

We, our and us – means us, the Company purchasing the Goods from the Vendor pursuant to the Contract. Our full name and Registered Office appears upon the reverse side of the document on which these Conditions are printed.

Item – means if the Goods are Equipment, one of it; if the Goods are Software, the expression of it in any media of form or if Services, any of them.

Vendor – means you, the person, customer, body, individual or company to whom the Order is addressed.

Amendment Order – means an official form issued by us containing the same purchase order number as the Order, and which amends or modifies the Order.

Specification – means the performance and other functions expected of the Goods, full details of which are conclusively detailed in or referred to in the Order (which may for the avoidance of doubt include any drawing prepared or approved by us).

Contract Price – means the amount stated in the Order as the Contract Price unless this has been expressly varied by agreement with us and recorded in writing.

Software – means instructions designed to achieve a certain result, whether contained on software or firmware, wherever resident and on whatever media.

Services – means the training and/or other services that will be provided by the Vendor, details of which are contained or referred to in the Order.

2. CONTRACT

2.1 The Vendor shall be bound by the Order when it begins work on the Goods, or delivers to us any Item ordered pursuant to the Contract, no Contract shall exist otherwise.

2.2.1 The Order and these Conditions shall become express terms of the Contract between the parties and any printed or written terms or conditions on any form or notice or letter of acceptance which purports to modify, contradict or conflict with any provision hereof shall be ineffective unless expressly and specifically agreed in accordance with Condition 3.

2.2.2 In exceptional circumstances our authorised buyer may agree a Contract with the Vendor by telephone. This will not be binding upon either party unless an official purchase order number of ours is advised to the Vendor and the Contract is confirmed by the issue by us of an Order within 72 hours of the telephone conversation taking place. All such Contracts shall be made on and subject to these Conditions.

3. MODIFICATION

3.1 No agreement or understanding to modify the Contract shall be binding upon us unless agreed to in writing upon the Order or in writing upon an Amendment Order and any and all previous agreements or understandings inconsistent with any of the various conditions herein set forth are hereby cancelled and rendered null and void to the extent of such conflict and/or inconsistency,

3.2 In exceptional circumstances our authorised buyer may agree a modification to a Contract with a Vendor by telephone. This will not be binding upon either party unless an Amendment Order is issued by us within 72 hours of the telephone conversation taking place.

CONDITIONS OF PURCHASE

4. PROCEDURE

The Company shall not be liable for any Orders or amendments thereto other than those issued or confirmed on our official Order or Amendment Order, signed by a person authorised on our behalf.

5. WARRANTY OF QUALITY

5.1 The Vendor warrants that for a period of eighteen (18) months from the date of acceptance or twelve (12) months from putting them into use, whichever shall be the sooner, the Goods shall be free from all defects in and be of good design, programming, material and workmanship. The Vendor further warrants and guarantees that the Goods will be merchantable, fit for the purpose intended by us, conform strictly to the description given in the Order and Specification and with the Vendor's sample and be of good quality. Neither inspection nor Delivery, nor acceptance, nor payment by us shall operate as a waiver of any breach of warranty or of any Condition of the Contract and the Vendor shall indemnify and hold us harmless against all or any damage arising from any such breach. We reserve the right to reject any Goods found to be in breach of the warranty set out in Condition 5.1 either pursuant to the tests and inspections conducted in accordance with Condition 12, on receipt, or during any process in our works. In the absence of Specification or sample, all Goods supplied must be of the best of their respective kinds and subject to our approval. We shall have the right to reject any of the Goods Delivered by the Vendor which are not of the stipulated quality, weight or measurement. Any breach of the warranty set out in Condition 5.1 or deviation from Specification or accepted sample will give us the right to cancel the whole or any part of the Order, and rejected Goods will be returned to the Vendor at the Vendor's expense (including cost of carriage). The Goods shall be at the Vendor's risk as soon as they are rejected and the Vendor has been so notified.

6. DELIVERY/TRANSPORT/PACKING

The Goods must be packed in such a manner as to ensure their safe transit and Delivered in accordance with our instructions. All packages must have marked on them the Vendor's name, the description and quantity of the contents, our part number (if specified on the Order), and our Order number. Where requested by the Vendor prior to the signing of the Order, packing materials and cases will be returned by us at the Vendor's expense and risk but if no such request is received, we shall be free to dispose of packing materials and cases as we see fit.

7. RISK AND PASSING OF PROPERTY

Unless otherwise expressly agreed in writing, the property in the Goods hereunder shall pass to us upon the earlier happening of: a) payment for all or any part of the Goods, or b) receipt thereof in pursuance of the Contract. Until receipt of the Goods by us, the risk of any loss or damage to or deterioration of the Goods from whatever cause arising shall be borne by the Vendor.

8. DELAY & TIME

8.1 Unless otherwise agreed to by us in writing at the time of placing the Order, time of Delivery and, where appropriate, the time of installation and/or commissioning shall be of the essence of the Contract.

8.2 Any delay in despatch or Delivery shall be reported at once to us by the Vendor. We reserve the right (without prejudice to any right we may have at common law or otherwise to claim damages) to cancel the Order without further liability and to rescind any Contract of which the Order forms part if Delivery is not made in accordance with the provisions set out in the Order, in such circumstances we reserve the right, without liability and in addition to our other rights and remedies, to arrange for completion of performance and/or to purchase substitute items elsewhere and charge the Vendor with any loss incurred.

CONDITIONS OF PURCHASE

9. PATENTS/COPYRIGHT/ CONFIDENTIALITY

The Order, the contract and any patterns, materials, drawings, Software, Specification and other data supplied to the Vendor by us ("Confidential information") shall be treated as secret and strictly confidential by the Vendor. The Vendor shall use the same solely for the purpose of the Contract and in so doing shall apply the strictest security measures at all times and places and to ensure that the Confidential information is disclosed only to those of its employees to whom such disclosure is strictly necessary for the purposes envisaged by the Contract and then only to those from whom confidentiality undertakings or terms similar to those appearing in these Conditions have been obtained. Confidential information shall not be disclosed by the Vendor nor used for any purpose other than the completion of the Contract without our prior consent in writing. This obligation of confidence shall survive the Contract and will continue for five (5) years thereafter.

10. INTELLECTUAL PROPERTY

The Vendor warrants that the Goods do not infringe any letters patent, registered design, trade mark or copyright and undertakes to indemnify and hold us harmless against all demands, actions, costs, claims, expenses and damages which we or any of our agents, employees or customers may incur in respect of any claim for infringement or alleged infringement and shall if we so require at its own cost take over the conduct of any such action, claim or demand. For the avoidance of doubt a breach of the warranty set out in this Condition shall be deemed a breach for the purposes of Conditions 22(b)(i). Where Software is supplied to us pursuant to these Conditions, subject to condition 16, the Vendor hereby grants to us an indefinite, unrestricted and royalty free right and Licence to use and modify and sub-licence others to use and modify the Software.

11. ASSIGNMENT

- 11.1 The Vendor shall not, without our prior written consent, assign or sub-let any of its rights or duties under the Contract and shall furnish copies of any such assignments or sub-contracts to us.
- 11.2 We shall have the right, without prior notice or penalty, and the Vendor hereby consents to and shall do all acts and execute all documents necessary to enable us to assign the benefit of and/or transfer the obligations arising from the Contract or any part thereof without restriction. We shall give to the Vendor notice of any such assignment or transfer within 14 days of its occurrence.

12. INSPECTION AND TESTS

- 12.1 Before dispatching the Goods, the Vendor shall carefully inspect and test them for compliance with the Contract and shall provide us with such test certificates as we may require.
- 12.2 We or any persons authorised by us on our behalf shall be entitled to inspect or test the Goods at all times and places, including at the Vendor's works or at the works of any of the Vendor's sub-contractors or assignees including during the period of manufacture for Equipment, the period of development for Software, and the period of performance for Services. If inspection or tests are made on Vendor's or their sub-contractor's or assignee's premises, the Vendor shall, without additional charge, provide all reasonable facilities and assistance as we or our representative shall require. If specified by us, the Vendor will give us adequate notice of their or their sub-contractor's or assignee's work's tests which any authorised representative of ours shall be entitled to attend without charge. Any inspection or testing by any such authorised representative shall not relieve the Vendor of any liability nor shall it imply acceptance of the Goods.

13. POSTPONEMENT

In the event of any industrial dispute or of any stoppage of or interference with our business or work for any cause beyond our reasonable control, which may prevent or hinder the Delivery, acceptance, storage or use of the Goods, the Delivery of the Goods and the payment therefore may be suspended at our option until the circumstances preventing or hindering the same have ceased.

14. PAYMENT

- 14.1 Any payment made will be without prejudice to our rights, whether at law or under these Conditions should the Goods be unsatisfactory or not in accordance with the Order. The Vendor agrees to waive the right of lien whether particular or general.

CONDITIONS OF PURCHASE

- 14.2 We shall not be invoiced at a price higher than the price last charged or quoted by the Vendor for the same items unless a higher price is authorised by the Order. The Vendor warrants and represents that the price charged for the items covered by the Order is the lowest price charged by the Vendor to buyers of a class similar to us with respect to items covered by the Order. Any price reduction to items covered by the Order subsequent to the placement of the Order and prior to our receipt of the items covered by the Order, shall apply to this order. The Vendor shall permit us or our representative to examine such of the Vendor's records at such times without notice as we may require to determine if the Vendor is complying with this Condition.
- 14.3 Payment shall be made at such time as the parties shall agree but in no event shall this be earlier than sixty (60) days from the end of the month in which the invoice supplied at the same time as or after the Goods, is received by us unless it is expressly stated to the contrary in the Order.
- 14.4 No charges will be allowed for taxes, import duties, transportation, packaging, packing, returnable containers, documentation, and media unless otherwise agreed. All sales, use, excise, or similar taxes to be paid by us must be itemised separately in the Order and on invoices. Shipments must be packaged according to Specification or, if not covered in the Specification, so as to permit efficient handling, provide adequate protection, and comply with requirements of carrier. Damage resulting from improper packaging will be charged to the Vendor.

15. INDEMNITY

- 15.1 The Vendor shall indemnify and hold us and our employees, agents, assignees, distributors, dealers, customers or other persons claiming title through us harmless in respect of any or any alleged liability, loss, claim, suit, action or proceedings whatsoever arising out of a defect in or the defective design, quality or material or workmanship or (if appropriate) installation of the Goods and in respect of personal injury to or death of any person, or any injury or damage to property, real or personal, directly or indirectly resulting from or allegedly resulting from the Goods being not in accordance with the express or implied provisions of the Contract.
- 15.2 If the Vendor, its employees, agents, sub-contractors or assignees enters upon any of our premises for any purpose connected with the performance of the Contract, the Vendor shall indemnify and hold us harmless against any loss, claim, costs, damages and/or expenses which may result from loss or damage to any property (including our property) or injury to or death of any person (including any of our employees) which may arise during or in consequence of such presence on our premises except to the extent that such damage injury or death results solely from our negligence.
- 15.3 The Vendor shall effect insurance against the risks the subject of the Vendor's indemnity, in Conditions 15.1 and 15.2 above with insurers and on terms approved by us for an amount (unless otherwise stipulated by us) of at least £1 million or the Contract value whichever shall be the higher and shall maintain such insurance in force for the duration of the Contract and any warranty or maintenance period.

16. RIGHTS IN DEVELOPMENT

- 16.1 This Condition 16 shall apply if the Goods are Services or if the Goods are Equipment or Software to be designed or developed in whole or in part and such design or development is either directly or indirectly paid for by us, whether itemised separately or included in the price for one or more items to be furnished.
- 16.2 The Vendor shall regularly disclose to us and it does hereby assign, to us all right and title to any and all inventions, improvements, or developments (including for the avoidance of doubt all copyright and other intellectual property rights in the same) (including in the case of Software in both the object and source code versions and all documentation prepared with the same) whether patentable or not, which it may make or assist in making in the course of such designing or development. The Vendor shall do all acts and execute all documents necessary to legally vest in us any such property.
- 16.3 The Vendor assigns, and agrees hereafter on demand to assign to us, all patents applications for patents in connection with any such invention, improvement, or development and to do all acts and to execute all instruments which we may request.
- 16.4 The Vendor shall cause every appropriate person employed by or associated with it to enter into an agreement under which such person shall disclose and assign to the Vendor or us all inventions and execute all papers and do all acts deemed necessary by us, to fulfil the obligations contained in this Condition 16.4.

CONDITIONS OF PURCHASE

- 16.5 In addition, all information, ideas, results, and data developed by the Vendor as a result of development work contemplated by this Condition shall be transmitted by the Vendor to us only and shall become our exclusive property and shall likewise be regarded by the Vendor as confidential for the same period and subject to the same exceptions as are provided in Condition 9.
- 16.6 The Vendor hereby warrants that it is free to enter into this Condition and has no obligations or requirements under any other agreement contrary to this Condition.

17. WAIVER

No waiver by either party, whether written or oral, express or implied, of any rights under or arising from the Contract shall be binding on any subsequent occasion and no concession by either party shall be treated as an implied variation of the Contract unless specifically agreed in writing in accordance with Conditions 3 and 4.

18. ADVERTISING

Neither the Contract nor our name shall be used by the Vendor for advertisement or publicity purposes without our prior written consent.

19. LAW AND APPLICATION

The construction validity and performance of the Contract shall be governed by the laws of England and any claim or dispute arising therefrom shall be subject to the exclusive jurisdiction of and be determined by the English Courts. Nothing in this Condition shall limit our right to take proceedings against the Vendor in any other Court of competent jurisdiction. Nothing in these Conditions shall prejudice any condition or warranty (express or implied) or right or remedy to which we are entitled in relation to the Goods by virtue of statute or Common Law.

20. TOOLING

- 20.1 All tools (including but not limited to dies, gauges, ties, fixtures, moulds and patterns) and any patterns or drawings furnished or owned by us or furnished by the Vendor and charged to us whether itemised separately or included in the price for items ("the Tools") shall become and be, or remain our property and shall be held, serviced and maintained by the Vendor at the Vendor's risk and cost in a condition so as to be suitable for production at all times.
- 20.2 All Tools are to be adequately insured by the Vendor whilst on their premises in an amount equal to the replacement cost thereof with loss payable to us.
- 20.3 Any Tools must be Delivered to us in good order and condition, fair wear and tear accepted, on request and unless otherwise advised by us on completion of the order, shall not be copied or used for any other purpose than for completion of Orders for us and shall be immediately subject to re-possession or removed by us upon our instructions.
- 20.4 The Vendor shall affix such notices on or otherwise mark or identify any Tools as we shall direct and the Vendor shall make available at any time such Tooling to us or our representative in order that we may confirm compliance with this Condition.
- 20.5 The Vendor must not dispose of any Tooling without our express and written consent.

21. GENERAL

- 21.1 Any notice required to be given under the Contract shall be given in writing and shall be deemed to have been duly given if hand delivered or sent by prepaid post, first class or telex or telecopier (facsimile) addressed to the party concerned at its principal place of business or last known address and in the case of a notice sent by prepaid post shall be deemed to be served at the time of actual delivery or 48 hours (if the Vendor's address for service is in Europe, and seven (7) days in all other instances) after posting whichever is the earlier. Notices sent by telex or facsimile shall be deemed delivered when transmitted. Notices delivered by hand shall be deemed served when delivered.
- 21.2 In the event that any one or more of the provisions contained in these Conditions shall be invalid illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 21.3 The Vendor warrants to us that:
- (i) it has the power to engage in the transactions contemplated by and or contained in the Contract.
 - (ii) it has full power, authority and legal right to execute and deliver the Contract and to comply with the provisions hereof.
 - (iii) the obligations expressed to be assumed by the Vendor and under the Contract constitute valid and binding obligations of the Vendor in accordance with their terms, and all acts, conditions and things to be done and performed and to have happened prior to the execution and delivery of the Contract in order to constitute all of the obligations of the Vendor hereunder as valid and binding have been done and performed and have happened in due and strict compliance with all applicable laws.

CONDITIONS OF PURCHASE

- 21.4 The provisions of Incoterms 2010 shall apply to these Conditions save where these are inconsistent with these Conditions.
- 21.5 Where the Vendor shall carry out any work on our site or a site of our customer, the Vendor shall be deemed to have inspected the site prior to the making of the Contract and will carry out such work in accordance with any applicable site or safety regulations.

22. TERMINATION

We may terminate the Order in whole or in part at any time upon our written notification to the Vendor:

- (a) for any reason at our convenience and in such case the extent of our liability shall be:
- (i) if the Goods are bespoke Software or Services, to pay the portion of the Contract price as the work completed bears to the whole (for the avoidance of doubt no liability shall arise in respect of non-bespoke Software), or
- (ii) if the Goods are Equipment, to pay the cost of the existing "finished Goods" inventory, but no more than required to fulfil the next delivery schedule within the thirty (30) days following the date of termination, plus the existing "work in progress" inventories required to fulfil an additional thirty (30) days of deliveries, except that these shall be no liability for inventories in either category which is a stock item or which is otherwise readily useable or resaleable. "Finished Goods" shall mean Goods that have passed final acceptance test and are awaiting delivery. "Work in progress" shall mean material in varying stages of completion with some degree of labour applied and/or individual piece parts and/or raw material in a stage of completion no more than necessary to meet delivery schedules.
- (b) for any default by the Vendor involving:
- (i) the Vendor's failure to design, develop or produce the Goods, Deliver the items, and/or render the Services specified by the Order within the time designated herein or commit any other material breach of Contract,
- (ii) the Vendor's failure to make progress in the performance of its obligations under the Contract reasonably satisfactory to us (provided that with respect to any default mentioned in (b) hereof, our right to terminate shall be conditioned upon the Vendor's failure within
- (iii) seven (7) days after receipt of our notification to provide a remedy satisfactory to us to cure such failure or noncompliance).
- (c) if the Vendor shall commit any act of bankruptcy or call a meeting of creditors or execute any assignment for the benefit of or compound with creditors, or if the Vendor (being a limited company) shall enter into compulsory or voluntary winding up or if any execution or distress shall be levied or leviable against the Vendor. In the event of termination by us due to the Vendor's default pursuant to (b) or for any reason described in (c) we shall have no liability to the Vendor as a result of such termination. In the event of termination for any reason, we may further notify the Vendor that all right, title and interest in and to all or any portion of materials acquired by the Vendor for the performance of the Contract work in progress and/or completed items specified in such notice shall pass immediately to us upon payment thereof. We shall have the right to enter upon the premises where such property (and/or any of our property described in Conditions 16 and 20 hereof) may be located and take possession thereof.

23. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Save as otherwise expressly stated, a person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.