

## **1. Definitions**

- 1.1 "Buyer" means the person or company issuing the Purchase Order.
- 1.2 "Seller" means the person or company to whom the Purchase Order is issued.
- 1.3 "Goods" means the articles or things (including services, drawings and other documentation) specified in the Purchase Order to be supplied by the Seller under the Contract.
- 1.4 "Purchase Order" means the Buyer's Purchase Order.
- 1.5 The "Contract" means the contract between the Buyer and the Seller consisting of the Purchase Order, these Conditions and any other documents or parts thereof specified in the Purchase Order. No other documents, variations or amendments to the Contract shall form part of the Contract unless expressly agreed to in writing by both parties.

## **2. Purchase Order**

- 2.1 The Purchase Order must be accepted promptly by the Seller in its entirety and may be withdrawn at any time before the acceptance is received by the Buyer.
- 2.2 The Buyer will not be liable for any Goods supplied or work performed beyond the scope of supply of a Purchase Order or in the absence of a Purchase Order.
- 2.3 The Seller must put the Purchase Order Number, Supplier's Code and the Buyer's Part Number on all invoices, delivery notes, packages and containers. Invoices shall be marked for the attention of the Account Department. The Seller shall comply with any other requirements for marking the goods stated on the Purchase Order.

## **3. Quality, Inspection, Testing and Rejection of Goods**

- 3.1 All goods shown on or referred to on the Purchase Order shall be fit for the purpose for which they are to be used and shall be of consistent quality.
- 3.2 Where Goods are manufactured by the Seller in accordance with the designs of the Buyer, the materials and processes specified by the Buyer shall be strictly adhered to unless otherwise agreed in writing with the Buyer.
- 3.3 Goods must be accompanied by a Certificate of Conformity or any other certificates stated in the Purchase Order. Such certificate(s) shall be signed by the person appointed by the Seller and should be received by the Buyer not later than the date of delivery of the Goods to the Buyer.
- 3.4 The Supplier shall maintain quality systems, procedures and documentation as may be acceptable to the Buyer. The Buyer reserves the right to carry out a quality audit at the Supplier's premises in respect of Goods supplied to the Buyer.
- 3.5 The Seller must, at its' own expense, ensure that all Goods supplied to the Buyer comply with all relevant governmental and local laws, regulations and orders of the country or countries of manufacture, transit, delivery and installation.
- 3.6 The Seller must notify the Buyer of any Goods that are considered to be of a hazardous nature.

- 3.7 The Buyer and anyone authorised by the Buyer shall have the right to inspect the Goods or any component parts thereof at any time during manufacture and prior to delivery to the Buyer. Whether or not the right of inspection is exercised, the Buyer shall have the right to reject the Goods after delivery if in the opinion of the Buyer they shall not comply in every material way with any of the requirements of the Contract.
- 3.8 The Seller warrants that the goods are in accordance with the requirements of the Contract. If, after delivery, it is found that they are not so compliant, the Buyer may reject the Goods, whereupon they must be promptly repaired or replaced, at the option of the Buyer. The Buyer also reserves the right to claim any resulting costs, damages or liabilities resulting from the rejection and/or non-compliance with the contract.
- 3.9 If the Goods are rejected under Clause 3.8 and the Buyer notifies the Seller that the option to have the Goods repaired is being exercised the Seller must effect collection of said Goods within 7 days of such notification. Failure to do so will result in the Buyer returning the Goods and debiting any costs thereby incurred to the Seller's account or retaining the Goods at the Seller's risk.
- 3.10 All materials and treatments used must be as specified on the Buyer's specification or drawings and the Seller should provide evidence of such at time of delivery of the Goods or on request of the Seller at any time during the period of two years after delivery date.
- 3.11 The Seller shall be responsible for and bear the cost of obtaining in due time and observing any necessary inspection or code approvals and any necessary licence or permit, whether governmental or otherwise, which shall be required in connection with the performance of the Contract.
- 3.12 Approval of any drawings or any other documents by the Buyer shall not affect the Buyer's right of rejection of the Goods or the liability of the Seller under the Contract.

#### **4. Free Issue Material**

- 4.1 Where the Buyer, for the purpose of the Contract, issues material free of charge to the Seller, such material shall be and remain at all times the property of the Buyer. The Seller shall maintain all such material in good order and condition and insure them for the replacement value against any loss, damage or destruction.
- 4.2 Should the Seller through bad workmanship or negligence render such material scrap, the Buyer shall have immediate recourse to the Seller for the reimbursement of the total value of the free issue material.

#### **5. Jigs and Fixtures**

- 5.1 Jigs and fixtures made by or provided at the request of the Buyer in connection with the manufacture of the Goods shall at all times remain the property of the Buyer. The jigs and fixtures shall be clearly marked as such. The Seller shall maintain them in good order and condition and insure them for the replacement value at its own cost against any loss, damage or destruction.
- 5.2 The Seller shall not, without the prior written consent of the Buyer, use or cause to permit to be used, the jigs and fixtures or drawings thereof for any purpose other than the performance of the Contract.
- 5.3 The Seller shall not in any circumstances have any lien (whether general or otherwise) in respect of any jigs and fixtures.

**6. Packing & Transport**

- 6.1 The Seller shall be responsible for any loss or damage, or any other liability incurred or sustained by the Buyer and/or its customers resulting from any damage which is attributable in whole or in part to defective and/or insufficient packing and/or in transit.

**7. Delivery**

- 7.1 The Buyer shall be entitled to postpone the date of delivery of all or any of the Goods upon giving notice to the Seller.
- 7.2 The Seller shall give written notice to the Buyer if the delivery of the Goods has been or is likely to be delayed.
- 7.3 Goods will not be accepted by the Buyer prior to the delivery date specified in the Purchase Order unless the Seller has received written agreement from the Buyer to do so.
- 7.4 The Seller shall be responsible for delivering the Goods, carriage paid, as specified in the Purchase Order.

**8. Force Majeure**

- 8.1 The time for delivery shall be extended by a reasonable period if delay is caused by instructions or lack of instructions from the Buyer or by national industrial dispute at the Seller's premises or by any other cause beyond the reasonable control of the Seller such as Acts of God, but not failure on the part of a sub-contractor or sub-supplier **PROVIDED** that the Seller shall give prompt notice in writing to the Buyer of (i) the commencement of any such cause for delay or potential delay and of the initial estimate of the length of delay, (ii) regular reports on the effect of the cause on delivery and (iii) the date of resumption of normal working.

**9. Liabilities for Delay**

- 9.1 If the Seller fails to deliver the Goods within the time for delivery stated in the Purchase Order or any agreed extension thereof, the Seller shall pay for each week or part of a week of delay, liquidated damages at the rate stated in the Purchase Order or any agreed modification thereof after which the delivery of the Goods shall be of the essence of the Contract. The payment or deduction of liquidated damages shall not relieve the Seller of any of its obligations under the contract.

**10. Title and Risk**

- 10.1 Unless otherwise agreed in writing, title and risk in the Goods shall transfer to the Buyer when the Goods have been delivered. For the purpose of this Clause, delivery means in the case of a vehicle delivery, completion of off-loading.

**11. Price**

- 11.1 The price of the Goods is stated in the Purchase Order. This is a fixed price (excluding VAT) and includes carriage paid and any packing materials used by the Seller.

**12. Payment**

- 12.1 Unless otherwise stated in the Purchase Order, payment for the Goods will normally be made by the Buyer 60 days following the end of the month in which the goods (including services, drawings, instruction manuals and other documents specified by the Buyer) and invoice were received provided that delivery was not made prior to the required delivery date of the Purchase Order.
- 12.2 Payment will be made in the currency specified in the Purchase Order.

**13. Defects in Goods after Delivery**

- 13.1 The Seller warrants that the Goods are free from defects for a period of 18 months from the date of delivery or 12 months from the date the Goods are commissioned, whichever is the later. Any defects shall be made good by repair or replacement at the Seller's expense. The Seller shall be liable for any damages and/or costs incurred by the Buyer directly arising from the defect in the Goods. Repairs and replacements shall themselves be subject to an 18 month warranty.
- 13.2 The Seller undertakes that service parts for the Goods or any assembly or part thereof shall continue to be made available to the Buyer for a reasonable time after execution of the Purchase Order.

**14. Indemnity**

- 14.1 The Seller undertakes to indemnify the Buyer against any liabilities or any third party claims arising from any Default on the part of the Seller in fulfilling the requirements of the Contract.

**15. Confidential Information**

- 15.1 Any information, whether written or oral, disclosed by the Buyer to the Seller shall be confidential and the Seller shall not disclose it to any person (other than those of its employees to whom disclosure shall be essential for the purposes of performing this Contract and provided the Seller obtains an undertaking of confidentiality from such employees) or use it for any purpose other than the performance of this Contract, without the prior written consent of the Buyer.

**16. Copyright**

- 16.1 The copyright in all designs, blueprints, sketches, illustrations, drawings, specifications, diagrams or other documents, supplied by or at the request of the Buyer to the Seller in anticipation of or in connection with the Contract, or made or prepared by the Seller at the express or implied request of the Buyer in anticipation of or in connection with the Contract, shall belong absolutely to the Buyer. The Seller shall if the Buyer so requests, execute any documents which may be required in order to vest such copyright absolutely in the Buyer.

**17. Cancellation**

- 17.1 If the Seller fails to comply with any terms of conditions of the Contract, thereof and without prejudice to the Buyer's other rights; the Buyer may cancel the contract in whole or in part, without any cost to the Buyer or liability.
- 17.2 The Buyer may for any other reason by written notice to the Seller cancel the

Contract at any time, in whole or in part. Upon receipt of such notice the Seller shall immediately cease all work in performance of the Contract. The Buyer shall pay the Seller, subject to agreement, for all Goods already completed or whose manufacture is in progress at the time of cancellation and shall pay for all materials and Goods for which an obligation to pay on the part of the Buyer has arisen before such date of cancellation.

## **18. Insolvency**

- 18.1 If the Seller becomes insolvent or (being a Company) makes an arrangement with its creditors or has a receiver or administrator appointed, commences to be wound up or is subject to amalgamation or reconstruction, the Buyer may, without prejudice to any of its rights, terminate the Contract forthwith by notice to the Seller or any other person in whom the Contract may have become vested.

## **19. Advertisement**

- 19.1 The Seller may not refer to the Contract in any form of advertising without the Buyer's prior written consent.

## **20. Law**

- 20.1 The Contract shall be governed by the laws of England and Wales and any disputes arising out of or in connection with the Contract or the performance, validity or enforceability of it ("Dispute") shall be heard and determined by an English Court of competent jurisdiction or, at the sole option of the Buyer, shall be submitted to the alternative dispute resolution procedure set out in clause 21 below.

## **21. Alternative Dispute Resolution**

- 21.1 In the event that the Buyer determines to utilise alternative dispute resolution prior to court action, it shall give written notice of the dispute to the Seller, setting out its nature and full particulars (Dispute Notice) together with supporting documentation. Within 7 days of service of the Dispute Notice, management representatives of both parties, in each case being of appropriate seniority and experience and with appropriate decision-making authority shall attempt in good faith to resolve the Dispute.
- 21.2 If the aforesaid management representatives are for any reason unable to resolve the Dispute within 14 days of the service of the Dispute Notice, the Dispute shall be referred to the managing directors or chief executives of the parties (or the appointees of such executives) ("MDs") who shall attempt in good faith to resolve it.
- 21.3 If the aforesaid MDs are for any reason unable to resolve the dispute within 14 days of it being referred to them, the parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party requesting mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice. Unless otherwise agreed by the parties, the place of mediation shall be nominated by the mediator.

- 21.4 No party may commence court proceedings in relation to any Dispute where a mediator has been appointed in accordance with this clause 21 until 30 days after the appointment of the mediator, provided that the right to issue proceedings is not prejudiced by any delay. Failure by the parties to appoint a mediator within 14 days of service of an ADR notice shall entitle either party to revert to immediate court action.

**22. Notices**

- 22.1 Any notice given under the Contract shall be served at or sent to the address of the Buyer or the Seller shown on the Purchase Order or such other address as the Buyer or the Seller shall notify to the other party.
- 22.2 Notices sent by inland first class post shall be deemed to have been received two working days after despatch and by overseas airmail seven working days after despatch. Notices served by email or facsimile shall be deemed to have been received one working day after the date of transmission.