

## METRIC GROUP LIMITED

### STANDARD CONDITIONS OF SALE

#### General Conditions

##### 1. Definitions

“**Buyer**” means any person, firm, company or governmental, local or public authority with whom Metric enters into any contract, whether directly or indirectly.

“**Metric**” means Metric Group Limited.

“**Services**” means services in relation to the installation and operation of the Goods and/or such other Services as Metric agrees to supply to the Buyer.

“**Goods**” means any product manufactured or supplied by Metric including but without limitation any engineered or mechanical product, ticket, tag or label including any software relating to such products.

- 1.1. Words in the singular shall include the plural and vice versa. References to any gender shall include the others and references to legal persons.

##### 2. Validity

- 2.1. These Conditions shall override any terms and conditions stipulated, incorporated or referred to by the Buyer in the acceptance (whether described as an order or otherwise) or in any prior negotiations and if a Buyer’s order contains or is subject to terms and conditions at variance with these Conditions, these Conditions shall prevail.
- 2.2. No order shall be binding on Metric until accepted by Metric in writing. This condition also applies where orders are placed in response to quotations made by Metric.

##### 3. Variation

- 3.1. These conditions shall not be varied, waived or added to save by agreement in writing signed by a Director or Secretary of Metric.

4. Delivery and Packing

- 4.1. Any delivery date and/or performance date given by Metric in writing or otherwise is (unless the contrary is expressly stated in writing) an estimate only and while Metric shall use reasonable endeavours to comply with that date it shall not be liable for any delay in delivery of the Goods or delay in the performance of the Services and time shall not be of the essence.
- 4.2. Unless otherwise agreed delivery will be by any method of transport selected by Metric. Any transport or insurance arranged by Metric will be at an extra charge to the Buyer. Packing will be to the standard required for delivery within the UK. Extra charges may be made for special packing specified by the Buyer.

5. Instalments

- 5.1. In the case of an order for delivery of Goods by instalments every delivery of goods shall be deemed to be the subject matter of a separate contract and failure in delivery or in payment for any one or more of the said instalments shall not, subject to Metric's rights contained in these Conditions, entitle the Buyer or Metric, as the case may be, to treat such failures as a repudiation of any further instalment.

6. Part Deliveries

- 6.1. Metric shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed. Where Goods are delivered by consignment Metric shall be entitled to invoice and be paid for each consignment separately.

7. Acceptance of Goods

- 7.1. The Buyer shall be responsible for inspection of the Goods on delivery. This responsibility shall not be avoided by the Buyer on signing for Goods on their delivery indicating that they have not been examined.
- 7.2. Metric shall not have any liability for non-delivery, delay in delivery, loss of or damage to the Goods occurring prior to delivery or for short delivery unless claims to that effect are notified in writing to Metric and the carrier within 14 days from the date of delivery (in the case of delay or damage to Goods or short-delivery) and within 14 days of the earlier of Metric's invoice and receipt by the Buyer of the advice note relating to the Goods (in the case of loss or non-delivery of Goods).

- 7.3. Metric shall not have any liability for Goods or Services which are not in accordance with the contract unless claims to that effect are notified in writing to Metric within 14 days from the date of delivery or performance. Unless such notice is received, the Goods and Services provided shall be deemed to be in all respects in accordance with the contract and the Buyer shall be deemed to accept them and shall pay for them in accordance with clause 8 below.
- 7.4. Metric shall not have any liability for failure to provide the Services in whole or in part unless claims to that effect are notified in writing to Metric within 14 days from the date of performance.

8. Prices and Payment

- 8.1. The prices shown in Metric's acceptance of the Buyer's order are those current at the date of such acceptance but the price payable by the Buyer shall be that current at the time of delivery to the Buyer. The full price shall become payable within thirty days from date of invoice and as regards payment thereof time shall be of the essence of the contract. All prices are exclusive of VAT, duties, levies carriage and insurance and any special packing requirements specified by the Buyer, which shall all be for the account of the Buyer.
- 8.2. All payments shall be made in sterling and shall be paid in full without any set-off, deduction or counterclaim. Without prejudice to its other rights, Metric may charge interest on any outstanding amounts at the rate of 4% over the base rate of Lloyds Bank Plc from time to time to be compounded monthly from the due date until payment is made in full both before and after judgement.
- 8.3. Metric shall be entitled without prejudice to any other rights which it may have to delay the performance of its obligations to the Buyer under this or any other contract while any amounts owing by the Buyer to Metric on any account are outstanding after the due date for payment thereof.

9. Errors and Omissions

- 9.1. Metric shall be entitled to correct at any time any arithmetical or typographical error or omissions.

10. Export

- 10.1. This Condition applies where Goods are supplied for export from the United Kingdom.

- 10.2. Unless expressly stated in Metric's acknowledgement of the Buyer's order, prices are Ex-Works Incoterms 1990 and do not include carriage, freight, insurance, loading and the preparation of all export documentation which will be supplied at the option of Metric on written request by the Buyer and any extra charges for such services shall be for the account of the Buyer.
- 10.3. Unless otherwise agreed in writing payment shall accompany the order in full in sterling and the order will not be accepted and production will not be commenced until such payment is received.
- 10.4. The Buyer is responsible for complying with all laws and regulations governing the import of the Goods into any country and for ensuring that the Goods comply with all laws, regulations and licensing requirements of any country to which they are exported. The Buyer shall indemnify Metric against the consequences of any breach of those laws, regulations and licensing requirements.
- 10.5. The Buyer shall also be responsible for the translation of any literature or labelling which it may require in connection with the Goods.
- 10.6. Section 32(3) of the Sale of Goods Act 1979 shall not apply. Where Goods are handed to a carrier or United Kingdom port for export to the Buyer, that carrier or port shall be treated as an agent of Metric for the purposes of section 44, 45 and 46 of the Sale of Goods Act 1979.
- 10.7. The uniform law on international sales shall not apply.

11. Passing of Property

- 11.1. The Goods shall remain the property of Metric and Metric warrants that it is the owner of the Goods until all the payment owing to Metric under the contract and all amounts owing to Metric by the Buyer on any other account whatsoever have been paid in full. While the Goods are the property of Metric, the Buyer, as bailee, shall keep them safe, insured and separate and identifiable from all other goods in its possession.
- 11.2. Until property in the Goods has passed to the Buyer in accordance with clause 11.1 above, Metric may (in addition to any other rights it may have) enter any land or buildings where the Goods are located and repossess and sell the Goods.

12. Transfer of Risk and Insurance

12.1. Notwithstanding the provisions contained in clause 11 the risk in the Goods shall pass to the Buyer as follows:

- (a) in all cases where the Goods are to be delivered by Metric to an address in the United Kingdom the risk will pass when the Goods have been so delivered;
- (b) in all cases where Goods are to be collected by the Buyer the risk will pass when the Goods are collected by the Buyer or by anyone acting on behalf of the Buyer or if the Buyer fails to collect the Goods within fourteen days after Metric has given the Buyer written notice that the Goods are ready for delivery and collection;
- (c) in all cases where the Goods are to be delivered to an address outside the United Kingdom, the risk will pass to the Buyer upon collection or dispatch from Metric's premises.

13. Warranty

13.1. If within 12 months from the date when the Goods are delivered any defect appears in such Goods which is due to faulty material or poor workmanship Metric UNDERTAKES to remedy such defects at its option either by replacement or repair or refund of price paid PROVIDED that:

- (a) full details of such defect are notified to Metric in writing within fourteen working days of its first appearing; and
- (b) the Buyer affords to Metric reasonable access at any time during normal business hours for the purpose of repairing or replacing any such part or parts or at Metric's sole discretion of returning the Goods to any depot of Metric; and
- (c) the Buyer affords Metric reasonable access at any time during the period of this warranty and during normal business hours to inspect the Goods.

BUT this Warranty SHALL NOT APPLY to the following:

- (i) defects resulting from fair wear and tear, misuse or failure to carry out the maintenance procedures recommended by Metric; or
- (ii) defects in goods on which the identification numbers or marks have been altered or removed; or
- (iii) defects in goods resulting from the use of a part or attachment or equipment fitted by someone other than Metric.

14. Exclusion of Conditions and Liabilities  
(including consequential loss)

- 14.1. Metric shall not be liable for any loss of profits or goodwill nor for any special, indirect, economic or consequential loss.
- 14.2. Nothing in these conditions shall exclude the liability of Metric for death or personal injury resulting from its negligence insofar as the same is prohibited by United Kingdom statute.
- 14.3. Save as expressly provided in these Conditions, all terms, conditions, representations and warranties (whether express or implied) are excluded to the fullest extent permitted by law. The Goods are not sold by description or sample.
- 14.4. Subject to any other limitations or exclusions of liability in these Conditions, the maximum aggregate liability of Metric, its servants and agents for breach of any contract and otherwise in connection with that contract (including for breach of any statutory duty and any tortious act or omission, including negligence) shall be limited to the price paid to Metric under that contract.

15. Performance and Drawings and Modification

- 15.1. Metric reserves the right to vary the technique, dimensions, capacity, output, consumption, weight, construction and specification of the Goods without notice. Changes in the Goods mean that descriptions in Company literature, illustrations and drawings may be inaccurate or out of date and, accordingly, save as expressly agreed in writing by Metric these do not form part of any contract with Metric.

16. Intellectual Property Rights

- 16.1. The Buyer shall indemnify Metric against all damages, charges, liabilities, costs and expenses which may be incurred or sustained by it by reason of or arising directly or indirectly out of any third party claims or rights or otherwise howsoever in respect of any products manufactured or services supplied in accordance with any specification, design, information, equipment or instruction given by or on behalf of the Buyer and whether relating to the infringement or the alleged infringement of a patent, copyright, design right, registered design or other protected industrial right or property or otherwise howsoever.

16.2. The intellectual property rights in the Goods covered by the contract shall, subject to any existing rights of any third party in the Goods remain exclusively the property of Metric (or where appropriate its licensor) and neither the Buyer nor any agent, contractor or other person authorised by the Buyer nor any other person firm or company shall at any time make use of the intellectual property rights or any part thereof and nor shall this contract be deemed to permit such person to make such use of the intellectual property rights or any part thereof. Unless expressly agreed in writing by Metric to the contrary, nothing in this contract shall operate to transfer any of Metric's intellectual property rights to the Buyer nor give rise to any licence or authority to the Buyer to make use of any of those intellectual property rights.

17. Software

17.1. The copyright in the Goods supplied by Metric under these Conditions shall remain the property of Metric. The Buyer shall be licensed to use the copyright in the Goods only to the extent necessary to operate and maintain the Goods.

18. Force Majeure

18.1. Metric shall not be responsible for any failure or delay in the performance of its obligations where the same is due to causes beyond its reasonable control including (but without limiting the foregoing) shortages of materials, acts of war (declared or not), riot, civil commotion, accidents, strikes or lockouts of employees, acts of God or any restriction imposed by any local or municipal authority or government authority including customs authority whether British or foreign, transport delays, industrial action, terrorism and other criminal acts.

19. Suitability

19.1. The Buyer is responsible for ensuring that Goods stipulated by it are sufficient for its purpose save in so far as the Buyer's stipulations are in accordance with Metric's advice in writing and signed by a Director or the Secretary of Metric.

20. Determination and Damages

20.1. Without prejudice to its rights Metric may determine the contract or suspend any future deliveries to the Buyer if:

- (a) any distress execution or other legal process is levied upon any of the Buyer's assets;

- (b) the Buyer ceases to trade or becomes unable to pay its debts as they fall due or a petition is presented or a meeting convened for the purposes of its winding up or the Buyer enters into liquidation, whether compulsory or voluntary, or compounds with its creditors generally or has an administrator, receiver or administrative receiver appointed over all or part of its assets or takes or suffers any similar action in consequence of debt.
  - (c) the Buyer fails to pay by the due date for payment any monies due from it to Metric.
- 20.2. Either party may terminate this contract immediately on notice to the other if the other commits a material breach of the contract and (where the breach is capable of remedy) fails to remedy the breach within 28 days of a written request to do so.
- 20.3. Termination will not affect the rights of either party accrued at the date of termination nor will it affect the obligations expressed or clearly intended to continue notwithstanding termination.

21. Arbitration

- 21.1. All disputes differences or questions at any time arising between Metric and the Buyer as to the construction of the contract or as to any matter or thing arising out of the contract or in any way connected therewith except any dispute relating in any way to payment shall be referred to the arbitration of a single arbitrator who shall be agreed between Metric and the Buyer or who in the event that the parties fail to reach such agreement, shall be appointed at the request of either party by the President for the time being of the Law Society. The arbitration shall be in accordance with the Arbitration Acts 1950 to 1979 and any statutory modification or re-enactment thereof for the time being in force.

22. Notices

- 22.1. Any notice required or authorisation to be given hereunder may be given either personally or by recorded pre-paid post or may be sent by facsimile addressed to such other party at its address furnished to the other by written notice or if no such address is provided, in the case of Metric, to its registered office and in the case of the Buyer to its registered office or principle place of business.
- 22.2. Notice shall be deemed to have been served when delivered if delivered personally or to have been served 48 hours after the same is posted and proof that the envelope containing the notice was properly addressed and sent by prepaid post shall be sufficient evidence of service or, in the case of facsimile immediately after transmission. Service by facsimile shall only be effective on receipt of a satisfactory facsimile transmission report.

23. Legal Construction

23.1. The Contract shall in all respects be governed by and construed and operated as English contract and in conformity with English law. Metric and the Buyer each submit to the exclusive jurisdiction of the English courts but this contract may be enforced in any court of competent jurisdiction.

24. Entire Understanding

24.1. These Conditions supersede any previous agreement between the parties in relation to the matters with which it deals and represents the entire understanding between the parties in relation to those matters.

## Appendix 1

### **PAYMENT TERMS**

Metric Group Limited's standard terms of payment for all purchases made by the Distributor from Metric Group Limited shall be varied as follows:

Payment will be made by irrevocable letter of credit in a format acceptable to Metric Group Limited. The irrevocable letter of credit is to be in favour of Metric Group Limited, and to be confirmed by Metric Group Limited's bankers prior to acceptance of any order. The irrevocable letter of credit is to be payable in the United Kingdom, in sterling, and all bank charges related to the letter of credit incurred outside of the United Kingdom are to be paid by the distributor.

20% of the total order value is to be payable to Metric Group Limited upon shipment from the United Kingdom.

The final payment of 80% of the total order value shall be payable 30 days after delivery of the equipment to the port of destination.