

## Terms and Conditions of Contract

### 1 DEFINITIONS

- (i) The term "Buyer" shall mean the Person, Firm or Company so named in the Purchase Order.
- (ii) The term "Seller" shall mean the Person, Firm or Company to whom the Purchase Order is issued.
- (iii) The word "Goods" includes all goods covered by the Purchase Order whether raw material, processed material or fabricated products.
- (iv) The term "Purchase Order" shall mean Buyer's Purchase Order which specifies that these conditions apply to it.
- (v) The Contract shall mean the contract between Buyer and Seller consisting of the Purchase Order, these conditions and any other documents (or parts thereof) specified in the Purchase Order. Should there be any inconsistency between the documents comprising the Contract they shall have precedence in the order herein listed.

### 2 QUALITY

In the absence of a specification or sample, all goods supplied shall be within the normal limits of industrial quality.

### 3 DELIVERY DATE

The date of delivery of the goods shall be that specified in the Purchase Order unless agreed otherwise between Buyer and Seller. Seller shall furnish such programmes of manufacture and delivery as Buyer may reasonably require and Seller shall give notice to Buyer as soon as practicable if such programmes are or are likely to be delayed. The Buyer reserves the right to cancel any balance outstanding if goods are not despatched by the date specified.

### 4 INCORRECT DELIVERY

All goods must be delivered at the delivery point specified in the Purchase Order. If goods are incorrectly delivered, Seller will be held responsible for any additional expense incurred in delivering them to their correct destination.

### 5 PASSING OF PROPERTY AND RISK TO BUYER

The property and risk in the goods shall remain with the Seller until they are delivered at the point specified in the Purchase Order.

### 6 LOSS OR DAMAGE IN TRANSIT

6.1 Buyer shall advise Seller and the Carrier (if any) in writing, otherwise than by a qualified signature on any Delivery Note, of any loss or damage within the following time limits:

- (i) Partial loss, damage, defects, or non-delivery of any separate part of a consignment shall be advised within 7 days of date of delivery of the consignment or part consignment.
  - (ii) Non-delivery of whole consignment shall be advised within 21 days of notice of despatch.
- 6.2 Seller shall make good free of charge to Buyer any loss of or damage to or defect in the goods where notice is given by Buyer in compliance with the condition provided the Buyer shall not in any event claim damages in respect of loss of profits.

### 7 ACCEPTANCE

In the case of goods delivered by Seller not conforming with the Contract whether by reason of being of quality or in a quantity measurement not stipulated or being unfit for the purpose for which they are required where such purpose has been made known in writing to Seller, Buyer shall have the right to reject such goods within a reasonable time of their delivery and to purchase elsewhere as near as practicable to the same Contract specifications and conditions as circumstances shall permit, but without prejudice to any other right which Buyer may have against Seller. The making of payment shall not prejudice Buyer's right to rejection. Before exercising the said right to purchase elsewhere Buyer shall give Seller reasonable opportunity to replace rejected goods which conform to the Contract.

### 8 VARIATIONS

Seller shall not alter any of the goods, except as directed in writing by Buyer, but Buyer shall have the right, from time to time during the execution of the Contract, by notice in writing to direct Seller to add to or omit, or otherwise vary, the goods, and Seller shall carry out such variations and be bound by the same conditions so far as applicable, as though the said variations were stated in the Contract. Where Seller receives any such direction from Buyer which would occasion an amendment to the Contract Price Seller shall, with all possible speed, advise Buyer in writing to that effect giving the amount of any such amendment, ascertained and determined at the same level of pricing as that contained in the Seller's tender. If, in the opinion of Seller, any such direction is likely to prevent Seller from fulfilling any of his obligation under the Contract he shall so notify Buyer and Buyer shall decide with all possible speed whether or not the same shall be carried out and shall confirm his instructions in writing and modify the said obligations to such an extent as may be justified. Until Buyer so confirms his instructions they shall be deemed not to have been given.

### 9 PATENT RIGHTS

Seller will indemnify Buyer against any claim for infringement of Letters Patent, Registered Design Trade Mark or Copyright by the use or sale of any article or material supplied by Seller to Buyer and against all costs and damages which Buyer may incur in any action for such infringement or for which Buyer becomes liable in any such action. Provided always that this indemnity shall not apply to any infringement which is due to Seller having followed a design or instruction furnished or given by Buyer or to the use of such article or material in the manner or for a purpose or in a foreign country not specified by or disclosed to Seller, or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by Seller and provided also that this indemnity is conditional on Buyer giving to Seller the earliest possible notice in writing of any claim being made or action threatened or brought against Buyer and on Buyer permitting Seller at Seller's own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim. Buyer on his part warrants that any design or instruction furnished or given by him shall not be such as will cause Seller to infringe any Letter Patent, Registered Design, Trade Mark or Copyright in the execution of the Purchase Order.

### 10 FORCE MAJEURE

If a delivery by Seller, or the acceptance by Buyer of a delivery, is delayed or prevented because the manufacture of the goods or their delivery to Buyer's works by usual route has been or is being prevented or hindered by circumstances beyond the reasonable control of Seller, including any form of Government intervention, strikes and lockouts relevant to the Contract, breakdown of plant, delays by Sub-Contractor (but only where such delays were beyond the control of the Sub-Contractor concerned), such delivery shall be suspended, and if it cannot be made within a reasonable time after the due date, the delivery may be cancelled by either party, by letter or cable to the other. Where more than one delivery is to be made against the Purchase Order, deliveries not cancelled will be resumed as soon as the circumstances causing the delay will be extended, Buyer shall pay Seller such a sum as may be equitable in respect of work performed prior to cancellation.

### 11 PROGRESS AND INSPECTION

Buyer's Representatives shall have the right to progress and inspect all goods at Seller's works and the works of Sub-Contractors at all reasonable times and to reject goods that do not comply with the terms of the Contract. Seller's sub-contracts shall be made accordingly. Any inspection, checking, approval or acceptances given on behalf of Buyer shall not relieve Seller or his Sub-Contractors from any obligation under the Contract.

### 12 BUYER'S RIGHTS IN SPECIFICATIONS, PLANS, DRAWINGS, PATTERNS, ETC.

Any specifications, plans, drawings, patterns or designs supplied by Buyer to Seller in connection with the Contract shall remain the property of Buyer, and any information derived therefrom or otherwise communicated to Seller in connection with the Contract shall be regarded by Seller as secret and confidential and shall not, without the consent in writing of Buyer, be published or disclosed to any third party, or made use of by Seller except for the purpose of implementing the Contract.

### 13 RESPONSIBILITY FOR INFORMATION

Seller shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by him, whether such information has been approved by Buyer or not, provided that such errors or omissions are not due to inaccurate information furnished in writing by Buyer.

### 14 ASSIGNMENT AND SUB-LETTING

The Contract shall not be assigned by Seller nor sub-let as a whole. Seller shall not sub-let any part of the work without the Buyer's written consent, which shall not be unreasonably withheld, but the restrictions contained in this clause shall not apply to sub-contracts for material, for minor details, or for any part of which the makers are named in the Contract. Seller shall be responsible for all work done and goods supplied by all Sub-Contractors.

### 15 COPIES OF SUB-ORDERS

When Buyer has consented to the placing of sub-contracts copies of each sub-order shall be sent by Seller to Buyer immediately they are issued.

### 16 CORROSION PREVENTION

Except where stated otherwise in Buyer's Purchase Order Seller shall protect any item, or part, that might deteriorate through corrosion during transportation or storage.

### 17 FREE ISSUE MATERIALS

Where Buyer, for the purposes of the Contract, issues materials free of charge to Seller, such materials shall be and remain the property of Buyer. Seller shall maintain all such material in good order and condition subject, in the case of tooling, patterns and the like to fair wear and tear. Seller shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at Buyer's discretion. Waste of such materials arising from bad workmanship or negligence of Seller shall be made good at Seller's expense.

### 18 WARRANTY

Seller shall, as soon as reasonably practicable repair or replace all goods which are or become defective during the period of 12 months from putting into service or 18 months from delivery, whichever shall be the shorter, where such defects occur under proper usage and are due to faulty design, Seller's erroneous instructions as to use or erroneous use data, or inadequate or faulty materials or workmanship, or any other breach of Seller's warranties, express or implied. Repairs and replacements shall themselves be subject to the foregoing obligations for the period of 12 months from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair or replacement. Seller shall further be liable in damages (if any) in respect of each Purchase Order up to the limit of the price of the goods covered by the Purchase Order provided that Buyer shall not in any event claim damages in respect of loss of profits.

The foregoing states the entire liability in contract and in negligence of Seller in respect of goods which are defective, other than liability arising under Clause 6 (Loss or Damage in transit), and Seller shall not, save as expressly provided herein, be liable for any other claim in regard to defects in the goods.

### 19 INSOLVENCY

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

### 20 GENERAL CONDITIONS IN THE TENDER

No conditions submitted or referred to by Seller when tendering shall form part of the Contract unless otherwise agreed to in writing by Buyer.

### 21 ARBITRATION

The construction, validity and performance hereof shall be governed by the Law of England and all disputes which may arise under, out of or in connection with or in relation to the Purchase Order shall be submitted to the arbitration of the London Court of Arbitration under and in accordance with its Rules at the date hereof. The parties hereto agree that service of any notice in the course of such arbitration at their address as given in the Purchase Order shall be valid and sufficient.