

## Conditions of Purchase

### 1. Definitions

1.1 In these conditions the following meanings apply:

1.1.1 “Conditions” the standard terms and conditions of purchase set out in this document.

1.1.2 “Contract” the contract for the sale and purchase of Goods or the supply of Services incorporating these Conditions and any Special Conditions.

1.1.3 “Goods” the goods specified on Purchase Order/Schedule Agreement.

1.1.4 “Purchaser” the company or business segment thereof as named on the Purchase Order/Schedule Agreement.

1.1.5 “Purchase Order” the document setting out the Purchaser’s requirements for Goods.

1.1.6 “Services” the services to be provided as specified on the Purchase Order including any materials, articles or goods to be supplied in connection therewith.

1.1.7 “Schedule Agreement” the document setting out the Purchaser’s requirements for Goods used in mass production.

1.1.8 “Spares” the Goods used to service radiators.

1.1.9 “Special Conditions” additional terms and conditions that the Purchaser may specify in relation to any particular Purchase Order/Schedule Agreement.

1.1.10 “Supplier” the supplier or contractor as named on the Purchase Order/Schedule Agreement.

### 2. Scope of Conditions

2.1 These conditions shall operate as a framework under which the Purchaser may place orders on the Supplier by issuing a Purchase Order/Schedule Agreement. A Purchase Order/Schedule Agreement shall constitute an offer by the Purchaser to purchase the Goods and/or acquire the Services subject to the Conditions and any Special Conditions.

2.2 Every Purchase Order/Schedule Agreement issued by the Purchaser and accepted under these Conditions by the Supplier shall constitute a separate contract.

### 3. Prevalence of Conditions

3.1 These Conditions and any Special Conditions shall apply to a Contract to the exclusion of any other terms and conditions. No terms or conditions put forward by the supplier shall form any part of a contract.

3.2 These conditions and any Special Conditions can only be varied with the written agreement of an authorised representative of the Purchaser. No person has the capacity to commit the Purchaser to any verbal contract. Such commitments will only be binding on the Purchaser when confirmed by a Purchase Order/Schedule Agreement.

3.3 The execution of any Purchase Order/Schedule Agreement or any part thereof by the Supplier shall be deemed to be an acceptance of these Conditions and any Special Conditions as varied by any written agreement of the Purchaser.

#### **4. Essential Documentation**

4.1 All Goods must be supplied with the relevant Purchase Order/Schedule Agreement number made clearly visible and all communications and documentation relating to any Goods or Services must always make clear reference to the relevant Purchase Order/Schedule Agreement.

4.2 An advice note specifying the Goods shall accompany the Goods upon delivery, and copies of the advice note shall, on the date of dispatch of the Goods, be sent by an agreed method of delivery to the Purchaser's address as shown on the relevant Purchase Order/Schedule Agreement.

#### **5. The Price**

5.1 The price of the Goods or Services shall be stated on the Purchase Order/Schedule Agreement and, unless otherwise expressly agreed in writing by the Purchaser shall be:

5.1.1 exclusive of any applicable value added tax (which shall be payable by the Purchaser subject to receipt of any appropriate VAT invoice), and

5.1.2 A fixed price inclusive of all charges for disposable packing, costs associated with returnable packing and/or containers, carriage, delivery, insurance and all other charges.

5.2 Where off-loading is required, the price shall include the Supplier providing any special equipment to ensure delivery to the place directed by the Purchaser.

5.3 The price shall include the provision by the Supplier of all equipment, materials, consumables and power necessary for the provision of Services unless otherwise specifically agreed in writing by the Purchaser.

5.4 The Purchaser shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown on its own terms and conditions of sale.

#### **6. Accuracy of Drawings**

6.1 The Supplier shall be fully responsible for the accuracy and completeness of all instructions, data, drawings and information supplied to the Purchaser whether or not approved by the Purchaser unless such inaccuracies or omissions were solely due to instructions, data, drawings or information supplied by the Purchaser upon which it is agreed by the Purchaser that the Supplier can rely.

#### **7. General Quality Requirements**

7.1 All Goods and Services will be verified by the Supplier's quality control organisation to ensure they comply fully with the specification and requirements of the Purchase Order/Schedule Agreement and any agreed amendments thereto.

7.2 All Goods shall be of satisfactory quality and reasonably fit for any purpose expressly or impliedly made known to the Supplier by the Purchaser regardless of whether the Purchaser relied on the skill and judgement of the Supplier.

7.3 All Services will be carried out with the reasonable care and skill and the Supplier is deemed to have inspected the relevant premises before tendering so as to have understood the nature and extent of the Services to be carried out and satisfied itself in relation to all matters connected with the Services and premises.

7.4 Any deviation from the technical requirements specified in a Purchase Order/Schedule Agreement must be notified to the Purchaser in writing as soon as such deviation becomes apparent and must be approved in writing by a senior member of the Purchaser's quality assurance department. Any such approval shall not be construed as approval for any future or past deviation and shall not relieve the Supplier of his obligation to Supply Goods and Services to comply with the Contract.

## **8. Special Quality Requirements**

8.1 This section applies when the Purchase Order/Schedule Agreement invokes one or more of the following clauses by reference to the Q1, Q2 and/or Q3 requirement.

Q1 Each delivery of Goods shall be accompanied by a certificate of conformity which as a minimum shall comprise commercial certification confirming that the Goods comply with all drawings, Purchase Order/Schedule Agreement requirements, all relevant specifications such as British Standards and the Purchaser's specifications. The certificate must be signed on behalf of the Supplier by a senior director or manager who is responsible for quality and such certificate must denote the position held by the signatory.

Q2 Each delivery of Goods shall be accompanied by a test certificate providing evidence of testing and certifying compliance with all drawings, Purchase Order/Schedule Agreement and specification requirements. The certificate must be signed on behalf of the Supplier by a senior director or manager who is responsible for quality and such certificate must denote the position held by the signatory.

Q3 All Goods supplied against the Purchase Order/Schedule Agreement shall be made available by the Supplier for inspection at the Supplier's works prior to delivery. Such inspection may be made by the Purchaser, its customers or subcontractors. The Supplier shall inform and give reasonable notice to the Purchaser's relevant purchasing department when the Goods will be available for inspection and no delivery shall be made until authority to proceed is given by a member of the Purchaser's quality control staff.

## **9. Warranty**

9.1 The purchaser may assign or transfer to its customers any warranty provided by the supplier in relation to the goods.

## **10. Inspection and Right of Access**

10.1 The Purchaser, its customers, subcontractors or any authorised representatives thereof shall have a right of access to the Supplier's premises or to the Supplier's subcontractor's premises at all reasonable times for the purpose of checking progress and carrying out or witnessing tests, procedures and inspection in relation to Goods and Services.

Reasonable notice of such access will be given to the Supplier.

10.2 If Goods (including procedures used to manufacture Goods) or Services are found to be unsatisfactory to the Purchaser or not in compliance with the Contract, the Purchaser may require the Supplier at the Supplier's cost to take all necessary steps to ensure compliance with the

Supplier's requirements for such Goods or Services or to rectify any other matter relating to Goods or Services found to be unsatisfactory.

## **11. Delivery**

11.1 Unless otherwise notified by the Purchaser, delivery of the Goods and performance of the Services shall be effected at the time or times specified by the Purchaser in the Purchase Order/Schedule Agreement and at the address of the Purchaser specified in the Purchase Order/Schedule Agreement. Time of delivery of the Goods or performance of the Services shall be of the essence of the Contract. If delivery or performance is not made when requested the Purchaser shall have the right to cancel the Purchase Order/Schedule Agreement without prejudice to its rights of action for breach of contract or otherwise.

11.2 The Purchaser shall be entitled to reject any Goods delivered or Services performed that are not in accordance with the Contract, and shall not be deemed to have accepted any Goods or Services until the Purchaser has had a reasonable opportunity to inspect them following delivery or performance or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

11.3 If the Goods are to be delivered, or the Services performed, by instalments, the Contract will be treated as a single contract and not severable.

11.4 When delivering the Goods or performing the Services at the Purchaser's premises, and at any other time when the Supplier is at the Purchaser's premises, the Supplier, its employees, agents and subcontractors shall comply with all safety and other regulations relating to such premises displayed at the premises or notified to the Supplier from time to time.

11.5 It is a fundamental term of the Contract that, unless otherwise agreed by the Purchaser in writing, the quantities of Goods delivered must equal the exact amounts indicated on the Purchase Order/Schedule.

11.6 All Goods shall not be deemed delivered unless signed for by an official representative. A signature on receipt of Goods does not constitute acceptance or evidence that the correct quantity has been delivered or that the delivery has been checked in any way.

## **12. Passing of Property**

12.1 Risk in the Goods shall pass to the Purchaser when the Goods are delivered to the place specified in the Purchase Order/Schedule Agreement or as otherwise specified by the Purchaser.

12.2 Property in the goods shall pass to the Purchaser upon delivery unless payment for the Goods is made prior to delivery, in which event property shall pass to the Purchaser once payment is made and the Goods have been appropriated to the Contract.

12.3 In case of rejection, title and risk of loss shall re-transfer from the Purchaser to the Seller upon the Purchaser's notice of such rejection.

## **13. Free Issue Materials**

13.1 The Supplier shall be responsible for and account for the risk, safety, proper use and, if appropriate, maintenance of free issue materials entrusted to it in connection with the Contract. Such materials shall be and remain the property of the Purchaser, its customers and/or subcontractors.

13.2 The Supplier shall use such materials solely for the purpose of the Contract and all surpluses shall be returned or disposed of only as directed by the Purchaser. Waste of free issue materials arising from bad workmanship or loss whilst in the custody of the Supplier shall be made good at the Supplier's expense.

#### **14. Payment**

14.1 Invoices shall be raised after the Goods have been supplied or after the Services have been completed and shall be sent to the address shown on the Purchase Order/Schedule Agreement. Invoices shall be paid by the Purchaser by the end of the second calendar month following that in which the invoice is received or as otherwise agreed.

14.2 The Purchaser shall be entitled to set off against sums due to the supplier all and any sums due from the Supplier to the Purchaser.

#### **15. Post Acceptance Defects**

15.1 Without prejudice to any other rights of the Purchaser, if within 12 months of putting the Goods into service or using the Services supplied, or within 18 months of delivery of the Goods or completion of the Services whichever is the longer, there shall appear in the Goods or Services any defect which has arisen under proper use from faulty materials, workmanship or design by the Supplier or the Goods or Services shall be found to be other than in accordance with the Contract, the Purchaser shall, notwithstanding that the Purchaser may have accepted the Goods and Services, be entitled to require the Supplier forthwith to replace the Goods or re-perform the Services which are defective, or at the Purchaser's sale option, to carry out repairs and/or modifications to the defective Goods or Services so that they cease to be defective.

15.2 In all of the above cases, the Supplier shall bear the full expense of return, redelivery and installation of the replacement Goods or re-performance of the Services. Any replacement goods or re-performed services shall become the Goods or Services for the purposes of the Contract.

15.3 Should the Supplier fail to replace, repair or modify the Goods or install Goods or re-perform the Services as aforesaid the Purchaser shall have the right, at the Supplier's expense, to Purchase such replacement Goods and Services elsewhere.

15.4 The Supplier shall on demand identify to the Purchaser the name and address of any person other than the Supplier who actually or apparently produced the Goods or imported them into the EC or the United Kingdom or who previously supplied them.

#### **16. Purchaser's Drawing, Tools etc.**

16.1 Any specifications, instructions, plans drawings, tools, models, patterns, samples, designs, or other materials (collectively the "Materials") supplied by the Purchaser to the Supplier in connection with any Purchase Order/Schedule Agreement shall remain the Purchaser's property and (together with all copies of the same made by or for the Supplier) shall be clearly marked by the Supplier as being the Purchaser's property. If so requested by the Purchaser, the Supplier shall return the Materials immediately after completion of the Purchase Order/Schedule Agreement or termination of the Contract.

16.2 All Materials, gauges, dies, jigs, moulds and any other equipment or articles paid for by the Purchaser shall be the Purchaser's property and shall be maintained in good condition by the

Supplier at the Supplier's expense. The said Materials, gauges, dies, jigs, moulds and other equipment or articles paid for by the Purchaser shall be used exclusively for performance of the Contract.

16.3 The Supplier shall, at its own expense, replace any materials or other equipment or articles referred to in the clause 15 if damaged, lost or destroyed whilst in the Supplier's possession or control, irrespective of cause.

16.4 All Materials and any other information derived therefrom or supplied by the Purchaser shall be regarded by the Supplier as secret and confidential, and shall not be published or disclosed to any third party or made use of by the Supplier except for the purpose of performing the contract.

16.5 All proprietary rights (including present and future intellectual property rights) in any Materials or inventions prepared or created by the Supplier for use, or intended use, in relation to the performance of a Contract are hereby assigned to and shall vest in the Purchaser absolutely. To this intent the Supplier undertakes to do all such things and execute all such documents as are reasonably necessary to secure the vesting in the Purchaser of such proprietary rights.

16.6 The Supplier shall ensure that any proprietary interest of the Purchaser is noted on any packing of dual Goods.

## **17. Spares**

17.1 Unless otherwise agreed in writing, the Seller agrees to satisfy the Spares requirements of the Purchaser in relation to Goods supplied for a period of 10 years following final mass production. The Seller shall maintain full capability to supply Spares until written advice is received from the Purchaser that Spares are no longer required.

17.2 In the absence of a written agreement, the Seller is required to provide Spares at no greater unit price or minimum order quantity than that agreed during mass production. The agreed order price will be stated on the Purchase Order and the supply of any Spares will be on these conditions.

## **18. Indemnity**

18.1 The Supplier shall insure against and indemnify the Purchaser against any and all direct and consequential losses, costs, claims, damages and expenses incurred by the Purchaser and arising out of or in connection with a Contract and/or the use, possession, operation or sale of the Goods and Services supplied by the Supplier thereunder. Such insurance and indemnity shall cover but shall not be limited to any claims that the Goods or Services infringe or are alleged to infringe any intellectual property right of a third party provided always that this indemnity shall not apply to any infringement which is due wholly to the Supplier having followed a design or instruction furnished or given by the Purchaser.

### **18.2 Insurance**

During the Contract the Supplier shall maintain in force with a reputable insurance company insurance which is adequate, in the Purchaser's reasonable opinion, to cover the Seller's full liability under the Contract and in any event:

- (a) Public liability insurance for not less than £25,000,000 for any one incident;
- (b) Products liability insurance for not less than £25,000,000 for any one incident; and
- (c) Employer's liability insurance for a minimum limit of £25,000,000.

The Supplier shall, on the Purchaser's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium. Such right of inspection shall not discharge the Seller in any way from its duty to comply with its obligations hereunder. Such insurances should be extended to provide an indemnity to the Purchaser as principal.

The Supplier shall at his own cost insure:

(a) All Goods up to the point when delivery is complete in accordance with clauses 11 and 12; and

(b) All Goods delivered to him by the Purchaser for repair or servicing from the time of collection or receiving them until re-delivery in accordance with the instructions of the Purchaser, in each case for their replacement value against loss, damage or destruction resulting from any insurable risk which can be reasonably contemplated as affecting the Goods.

## **19. Cancellation**

19.1 If the Supplier becomes insolvent or (if an individual) becomes the subject of bankruptcy proceedings or makes any arrangement with its creditors or becomes subject to an administration order or has a receiver appointed over any of its assets or property or winding up proceedings are issued against it (other than voluntarily for amalgamation or reconstruction) or an encumbrance takes possession of any of its assets or property or the Supplier ceases or threatens to cease to carry on business or if the Purchaser reasonably believes any of the above is about to happen then the Purchaser may, without prejudice to any other rights it may have hereunder, terminate the Contract forthwith by written notice to the Supplier or any other person in whom the Supplier's affairs have become vested.

19.2 In addition to other rights within these Conditions, the Purchaser may cancel the Purchase Order/Schedule Agreement whether in whole or in part by written notice to the Supplier at any time. In such cases the Purchaser's sole liability to the Supplier shall be to pay the relevant part of the Contract price to the Supplier for all elements of the Goods supplied and Services performed as at the date of the notice to cancel together with the reasonable costs of the Supplier in terminating its commitments properly and reasonably undertaken to third parties as at the date of the notice to cancel.

19.3 No payments will be due or made hereunder by the Purchaser unless and until a properly documented and complete claim is submitted by the Supplier and agreed by the Purchaser.

## **20. Force Majeure**

20.1 The Supplier must use its best endeavours to carry out and complete the Contract in line with the Purchase Order/ Schedule Agreement requirements but the Supplier shall be relieved of its obligations while it is unable to carry out or complete the Contract because of any act of God, war, riot, fire or flood. At the cessation of these events, the Supplier will resume the obligations unless the Purchaser has elected to treat the Contract as terminated. If the Supplier is to invoke the clause it must advise the Purchaser by notice in writing within 14 days of the start of any of the above events. On receiving such notice the Purchaser shall have the right to cancel without liability to the Supplier.

## **21. Environmental Policy**

21.1 The Purchaser is committed to the reduction of harmful environmental effects caused by its activities and products. This is achieved by use of systems which monitor pollution with the aim of prevention and continuous improvement of such systems.

21.2 The Supplier warrants that it will maintain environmentally friendly systems to a standard that shall conform fully to any relevant environmental legislation.

## **22. General**

22.1 A Purchase Order/Schedule Agreement or any part thereof shall not be subcontracted or assigned without the prior written consent of the Purchaser. In any legal proceedings between the Purchaser and the Supplier, the Supplier shall not set up the existence of a subcontract or any of the terms thereof as a defence to such proceedings and shall be responsible for its subcontractors in all respects.

22.2 Any Goods and/or materials supplied under a Contract which are hazardous shall be marked with the appropriate international danger symbols and the name of the Goods or materials shall be in English. In addition the Supplier shall provide advice and precautionary leaflets (in English) in respect of any such Goods and/or materials where appropriate and shall observe all United Kingdom legislation and international agreements relating to the packing, labelling and carriage of hazardous goods.

22.3 All notices required under a Contract shall be in writing and delivered either in person or by a means evidenced by delivery receipt to the address specified on the Purchase Order/Schedule Agreement. Such notices shall be effective upon receipt.

22.4 Any waiver of the provisions of a Contract, or a delay by either party in the enforcement of any right hereunder, shall neither be construed as a continuing waiver, nor create an expectation of non-enforcement, of that or any provision or right.

22.5 The Headings to conditions shall not affect their interpretation.

22.6 A Contract shall be construed and take effect in accordance with the laws of England and all correspondence and communication concerning the Contract shall be in English. The parties hereby submit to the non-exclusive jurisdiction of the English Courts for the determination of any disputes arising under a Contract or these Conditions.

## **23. Bribery Act**

The Supplier will comply with applicable UK laws relating to anti-bribery, including but not limited to the Bribery Act 2010.