



TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE

The terms and conditions set out below and overleaf ("the Contract Terms") together with the benefit of any terms and conditions implied in favour of a purchaser which are not inconsistent with the Contract Terms shall constitute the entire agreement between the Supplier and the Purchaser ("the Contract"). The commencement of any work or the delivery of any goods or the performance of any services hereunder by the Supplier whichever shall be the earliest shall constitute acceptance by the Supplier of such terms and conditions

2. EXCESS QUANTITIES AND EARLY DELIVERY

2.1 The Purchaser is not obliged to (but at its option may elect to) accept and pay for any goods produced or work done in excess of the quantity specified under the Contract or goods supplied earlier than the date for delivery set out overleaf or in any delivery schedule

2.2 Any goods referred to in Clause 2.1 which are not accepted by the Purchaser will remain at the Supplier's risk and the Purchaser may return the same to the Supplier at the Supplier's risk and expense

3. PACKING AND CARRIAGE

Transit and offloading shall be at the Supplier's risk and no charges for packing, carriage or insurance will be allowed unless so specified overleaf. If any packing materials are clearly marked as the property of the Supplier and the Supplier states on the delivery advice note and invoice that such items should be returned and to what address they should be sent the Purchaser will return them at the Supplier's expense. In the absence of such instructions for their return the Purchaser may without notice to the Supplier dispose of them as the Purchaser thinks fit without being liable to account in any way to the Supplier

4. ADVICE NOTES

A detailed advice note quoting the Purchaser's official order number and a certificate of conformity marked for the attention of the Quality Control Supervisor must accompany each consignment of goods and a copy of each such document must be sent by post to the Purchaser to the delivery address stated overleaf on the day that the goods are despatched

5. SPECIFICATION

Goods shall conform to specification, drawings, samples or other descriptions, shall be fit and sufficient for the purpose intended and be of satisfactory quality and without prejudice to any other of the Purchaser's rights and remedies in default thereof or if goods are damaged in transit the Purchaser may at its option require such goods to be replaced forthwith free of charge or reject such goods and be refunded the purchase price in accordance with clause 17.3

6. CHANGES IN SPECIFICATION

The Purchaser may at any time and for any reason make changes in writing relating to the Contract, including changes in the drawings or specifications, method of shipment, quantities, packing or time or place of delivery. If such changes result in an increase in cost of, or time required for, the performance of the Contract, an equitable adjustment shall be made to the price, delivery schedule or both. Any claim or adjustment by the Supplier must be approved by the Purchaser in writing before the Supplier proceeds with such change

7. PAYMENT

7.1 Payment will normally be made (and will be made no earlier than) 90 days after the date of the invoice

7.2 Without prejudice to any other of the Purchaser's rights or remedies, payment may be delayed by the Purchaser if:-

7.2.1 the Supplier is in breach of this or any other contract with the Purchaser; or

7.2.2 the Supplier fails to comply with the instructions overleaf; or

7.2.3 invoices correspondence or advice notes relating to the goods do not state the Purchaser's official order number

Such delay will not affect the Purchaser's rights to any cash discount to be allowed on the price of goods supplied under the Contract

8. PROPERTY AND RISK

8.1 Subject to clause 8.2 the property and risk in the goods will pass to the Purchaser at the time and place of delivery unless otherwise specifically agreed

8.2 Where the Purchaser has made payment in advance of delivery of any goods which the Supplier has:-

8.2.1 acquired or subsequently acquires specifically for the Purchaser; or

8.2.2 appropriated or subsequently appropriates to the Contract

title in such goods shall pass to the Purchaser upon payment or, if later, as soon as such goods are acquired specifically for the Purchaser or are appropriated to the Contract but risk in the goods shall not pass to the Purchaser until the time and place of delivery

9. DIES, TOOLS, PATTERNS AND EQUIPMENT

9.1 Invoices for dies, tools, patterns and equipment ordered by the Purchaser used in the manufacture of the goods whether to be paid for in whole or part by the Purchaser (in this Clause 9, collectively referred to as "Tooling") shall be rendered separately from other goods supplied by the Supplier. Payment of such invoices shall not be authorised until the Purchaser approves the quality of samples produced from Tooling

9.2 Tooling shall be kept securely in good condition by the Supplier adequately protected from all risks (including fire, theft and weather) without expense to the Purchaser

9.3 No Tooling and no specifications, plans, drawings or other documentation or information supplied to the Supplier or used in the manufacture of the goods or performance of the Contract shall be used in the production, manufacture or design of any other goods without the prior written consent of the Purchaser

9.4 At the termination of the Contract, Tooling will be delivered at the Supplier's expense to the Purchaser's premises or as the Purchaser shall direct. The Supplier shall not dispose of Tooling without the written consent of the Purchaser

10. NEGATIVES AND ISSUED MATERIALS

All negatives and other goods and materials supplied by the Purchaser to the Supplier whether for the purpose of manufacture, processing, repair or storage or otherwise in connection with the Contract shall not be removed from the Supplier's premises without the written instructions of the Purchaser except for the purpose of fulfilling the Contract. The Supplier shall return to the Purchaser such negatives and such number or quantity of completed items specified overleaf or shall account for failure to do so to the satisfaction of the Purchaser. Any surplus of such goods or materials shall be returned to the Purchaser or disposed of as the Purchaser may direct. Without prejudice to any other rights or remedies of the Purchaser, waste of such materials other than in the normal course of the performance of the Contract shall be made good at the Supplier's expense

11. THE PURCHASER'S GOODS

11.1 Any dies, tools, patterns, equipment or goods supplied by the Purchaser to the Supplier referred to in Clauses 9 and 10 are herein referred to as "the Purchaser's Goods"

11.2 The property in the Purchaser's Goods shall remain in the Purchaser who may retake possession thereof at any time without notice. The Supplier shall keep the Purchaser's Goods separate and apart from all property of other persons and shall clearly mark the Purchaser's Goods as the Purchaser's property

11.3 The Supplier hereby agrees to indemnify the Purchaser against loss of or damage to the Purchaser's Goods during the time they are in the Supplier's possession, custody or control. During such time the Supplier shall adequately insure the Purchaser's Goods in the name of and for the benefit of the Purchaser at the Supplier's expense with a reputable insurance company against loss or damage arising from any cause whatsoever and shall produce to the Purchaser on demand the policies of such insurance and the receipts for premiums paid thereon

11.4 The Supplier hereby waives any lien that it might otherwise have (whether at the date hereof or subsequently) on any of the Purchaser's Goods for work done thereon or otherwise but this Clause shall not be construed as a waiver of any other right of recovery of any charges that may be due to the Supplier for such work

11.5 The Supplier shall promptly pay the Purchaser on demand the full replacement value of any of the Purchaser's Goods which are not returned or satisfactorily accounted for

12. EXCLUSIVE MANUFACTURE

The Supplier will not either during the period of the Contract or at any time thereafter:-

- 12.1 manufacture or procure to be manufactured, for any person or company other than the Purchaser any goods to designs or specifications originated or owned by the Purchaser; or
- 12.2 disclose to any person or company any manufacturing process, design, negative, engineering drawing or data, information, or any other trade secret of whatsoever nature relating to the Purchaser or the goods or services being supplied to the Purchaser under the Contract

13. INVENTIONS, IMPROVEMENTS AND DISCOVERIES

The Supplier agrees to assign to the Purchaser all inventions, improvements and discoveries conceived in the performance of the Contract (whether such is patentable or not) made by the Supplier or any person employed by or working under the direction of the Supplier. On completion of the Contract, the Supplier shall give to the Purchaser all designs, negatives, engineering drawings and data and information of whatsoever nature in its possession and cause its employees to sign any documents necessary to enable the Purchaser to file applications for patents throughout the world and to obtain title thereto and the Supplier shall use its best endeavours to facilitate the same

14. PATENTS AND DESIGNS

The Supplier warrants that the sale or use of goods supplied pursuant to the Contract will not infringe any patent, registered design, industrial design or other design right, copyright, trade or service mark or trade name or other protected right in any country and undertakes to indemnify the Purchaser against all judgments, decrees, orders, damages, costs and expenses arising from actual or alleged infringements of the same

15. RIGHT TO TERMINATE

The Purchaser shall be entitled to terminate the Contract and any other contract made between the Purchaser and the Supplier without the Purchaser incurring any liability to the Supplier and without prejudice to the Purchaser's other rights in any of the following circumstances:-

- 15.1 Substantial movement in the price of the goods ordered or of competitive goods
- 15.2 The Supplier fails to deliver the goods on the date set out overleaf or in any delivery schedule
- 15.3 The quality of the goods supplied by the Supplier either in performance of the Contract or as a sample is such that they do not conform to specification, drawings, samples or other descriptions or they are unfit or insufficient for the purpose intended or that they are not of satisfactory quality or defective in material or workmanship
- 15.4 The Supplier has indicated to the Purchaser that the Supplier is the manufacturer of the goods and the Supplier has subcontracted the manufacture without the prior written consent of the Purchaser
- 15.5 The Supplier has had a bankruptcy order made against him or has made an arrangement or composition with his creditors or otherwise taken the benefit of any Act for the time being in force for the relief of insolvent debtors, or has suffered or allowed any execution whether legal or equitable to be levied on his property or obtained against him, or (being a body corporate) has had convened a meeting of creditors (whether formal or informal) or has entered into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or has a receiver manager administrator or administrative receiver appointed of its undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for the winding-up of the Supplier or any proceedings have been commenced relating to the insolvency or possible insolvency of the Supplier

16. PAYMENTS ON TERMINATION

- 16.1 The Purchaser may at any time give written notice to the Supplier to terminate the Contract forthwith and in such event the Purchaser shall pay and the Supplier shall accept in settlement of all claims under the Contract such a sum as shall reasonably compensate the Supplier for work done and raw materials received and paid for by the Supplier in and for the performance of the Contract prior to its termination
- 16.2 The provisions of Clause 16.1 shall not apply if the order is terminated by the Purchaser pursuant to the default of the Supplier pursuant to any term of the Contract

17. INSPECTION

- 17.1 Prior to delivery to the Purchaser the Supplier shall adequately inspect and test the goods and if the Purchaser so requires the Supplier shall furnish the Purchaser with test certificates and complete such questionnaires as the Purchaser may reasonably require
- 17.2 The Supplier shall allow the Purchaser or its authorised representative unrestricted access to any area of any premises where the goods or any part are being manufactured or stored or where any of the Purchaser's Goods are being kept in order that the Purchaser or its authorised representative may inspect, test, or inspect tests of the same, or verify conformance of goods with the specification requirements of the Purchaser or carry out such inspection as may be reasonably necessary for the Purchaser to ensure that proper quality procedures are being carried out by the Supplier. The Supplier shall afford the Purchaser or its authorised representative such use of the Supplier's equipment and employees as is reasonable in the circumstances in order to facilitate such inspection testing or verification
- 17.3 Goods supplied shall be subject to the Purchaser's inspection and right of rejection at any time within 12 months of delivery irrespective of date of payment therefore and however slight the failure to meet the requirements of the Contract (and sections 15 (A)(1) and 30 (2A) of the Sale of Goods Act 1979 (as amended) shall not apply). When goods are rejected either in part or in total they will be returned at the Supplier's expense

18. INDEMNITY

Without prejudice to the Purchaser's rights under any condition warranty or other term implied herein by statute or by Common Law or under any term of the Contract, the Supplier will be liable to the Purchaser for and indemnify and keep the Purchaser indemnified against any liability claim costs (on a full indemnity basis) proceedings loss or damage (including the stopping of or interference with the production or manufacture or supply by the Purchaser of any goods or services):-

- 18.1 caused by any defect in any goods supplied or work done by the Supplier or by their not complying with any specification drawings samples or other description
 - 18.2 in the event of delays, defaults or non-deliveries arising other than as a result of negligence on the part of the Purchaser, against any increase in:-
 - 18.2.1 the cost of labour or material required to produce the goods
 - 18.2.2 the cost of transportation
 - 18.2.3 the cost of any other item in connection with the goods which would not have been incurred but for such delay, default or non-delivery
 - 18.3 incurred by the Purchaser under contracts entered into by the Purchaser for the supply of goods the supply of which has been delayed or rendered impossible by the breach by the Supplier of its obligations hereunder
 - 18.4 arising directly or indirectly out of any breach by the Supplier of the Contract
- Any sums expended by the Purchaser so caused or arising shall be reimbursed to the Purchaser by the Supplier on demand

19. ALTERATIONS IN TERMS

The Supplier will forthwith notify the Purchaser in writing of any increase in the credit period and/or the rates of discount which the Supplier extends to its customers

20. ADVERTISING

The Supplier will not without first obtaining the written consent of the Purchaser in any way whatsoever advertise or publish the fact that the Supplier has contracted to supply to the Purchaser the goods or services herein mentioned

21. HEALTH AND SAFETY AT WORK ETC ACT 1974 AND HAZARDOUS GOODS

Any goods supplied or installed under the Contract shall be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health. The Supplier agrees before delivery to furnish the Purchaser in writing with a list of any harmful or potentially harmful properties or ingredients in the articles supplied whether in the transport handling use or otherwise and thereafter information concerning any changes in such properties or ingredients. The Purchaser will rely on the supply of such information from the Supplier in order to satisfy its own obligations under the Health and Safety at Work etc Act 1974

22. GUARANTEE

The Supplier consents to the Purchaser transferring any guarantee or similar rights given by the Supplier to the Purchaser in relation to the goods or services supplied to any other person or company to whom the Purchaser sells hires or disposes of such goods or services to the intent that such guarantee or similar right may be enforced against the Supplier not only by the Purchaser but also by any person or company claiming through the Purchaser

23. SET-OFF

The Purchaser shall at any time be entitled to apply any money due to the Seller, or any associated or subsidiary company of the Seller, in respect of any goods or work in settlement of such invoices or accounts in respect of such goods or work as the Purchaser may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the Supplier. In this clause the expressions "associate" or "subsidiary" company shall have the meaning attributed to them under the Income and Corporation Taxes Act 1988

24. GENERAL

This Contract will be construed and operate in accordance with English Law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts