

Mayflower Engineering Limited

TERMS AND CONDITIONS OF PURCHASE

1 INTERPRETATION

1.1 Definitions

In these conditions, the following definitions apply:

"Business Day": a day (other than a Saturday, Sunday or Public Holiday) when banks in London are open for business;

"Buyer": means Mayflower Engineering Limited (a company registered in England and Wales with company number 06503518) whose registered office is Coleridge Road, Sheffield, South Yorkshire, S9 5DA, or such other company within the same group of companies as Mayflower Engineering Limited and which has issued the Purchase Order to the Supplier;

"Buyer Materials": has the meaning given in Condition 10;

"Conditions": the terms and conditions set out in this document;

"Contract": means the Purchase Order, any specification or terms agreed in writing between the Buyer and Supplier relating to the purchase of the Goods and/or Services and these Conditions;

"Delivery Location": means the point of delivery specified on the Purchase Order;

"Force Majeure Event": has the meaning given in Condition 14;

"Goods": means the goods (if any) which are the subject of the Purchase Order issued by the Buyer to the Supplier;

"Purchase Order": means the order or orders of purchase placed by the Buyer for the supply of the Goods and/or Services;

"Services": means the services (if any) which are the subject of the Purchase Order issued by the Buyer to the Supplier;

"Supplier": means the person, firm or company to whom the Purchase Order is issued.

1.2 Construction

In these Conditions the following rules apply:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or assignees.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. It includes any subordinate legislation made under that statute or statutory provision as amended or re-enacted.
- (d) Any phrase introduced by the terms "including", "include", "in particular", or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to writing or written includes faxes and emails.
- (f) Condition headings do not affect the interpretation of these Conditions.
- (g) Words in the singular include the plural and in the plural include the singular.

2 SCOPE OF THE CONTRACT REQUIREMENTS

- 2.1 The Supplier warrants to the Buyer that all services, equipment and materials necessary to deliver the Goods and/or perform the Services in accordance with the Contract are included in the Supplier's scope of work. The Buyer shall not be liable to pay any extra amount because the Supplier has failed to consider factors that affect the price of the Contract or the time for completion of the Contract.

3 BASIS OF CONTRACT

- 3.1 These Conditions apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice, or course of dealings.
- 3.2 In the event of any conflict between any of the documents forming the Contract:-
 - (a) the Purchase Order shall prevail over any specification or terms agreed in writing with the Buyer and shall prevail over these Conditions; and
 - (b) any specification or terms agreed in writing with the Buyer shall prevail over these Conditions.
- 3.3 The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or perform the Services in accordance with these Conditions.
- 3.4 The Purchase Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier issuing a written acceptance of the Purchase Order; and
 - (b) the Supplier doing any act consistent with fulfilling the Purchase Order, at which point the Contract shall come into existence.
- 3.5 The Contract constitutes the entire agreement between the parties. The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Buyer which is not set out in the Contract.

4 QUALITY

- 4.1 The Supplier shall ensure that the Goods shall:
 - (a) correspond with their description and any applicable specification, CE Mark, published tolerances, British Standards Specifications and Codes of Practice;
 - (b) be of satisfactory quality (within the meaning of the Sales of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer expressly or by implication, and in this respect the Buyer relies on the Supplier's skill and judgement;
 - (c) where applicable, be free from defects in design, material and workmanship and remain so for [12] months after Delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of goods.
- 4.2 The Supplier shall ensure that at all times it has and maintains all the licenses, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 4.3 The Buyer shall have the right to inspect and test the Goods at any time before delivery at the Supplier's expense.
- 4.4 The Buyer shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following Delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.
- 4.5 If any Goods delivered to the Buyer do not comply with Condition 4.1, or are otherwise not in conformity with the terms of these Conditions, the Buyer shall be entitled to the remedies set out in Condition 6.

- 4.6 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and/or Services and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Buyer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions

5 DELIVERY

- 5.1 The Supplier shall deliver the Goods and/or perform the Services:
- on the date specified on the Purchase Order, and the time of such delivery or performance shall be of the essence to the Contract.
 - to/at the Delivery location;
 - during the Buyer's normal business hours, or as instructed by the Buyer.
- 5.2 The Supplier shall not deliver the Goods or perform the Services before the date specified in the Purchase Order without the prior written consent of the Buyer.
- 5.3 The Supplier shall deliver the full quantity of the Goods specified in the Purchase Order at one time or in accordance with the rate specified therein. The Buyer may refuse delivery of part only. The Buyer shall be entitled to return, at the Supplier's expense, any quantity of Goods delivered in excess of the quantity ordered by the Buyer.
- 5.4 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 5.5 The Supplier shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies set out in Condition 6.

6 REMEDIES

- 6.1 If the Goods are not delivered on the date they are due as referred to in Condition 5.1(a), or do not comply with the undertakings set out in Condition 4.1, then, without limiting any of its other rights or remedies, the Buyer shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods:
- to terminate the Contract;
 - to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - to recover from the Supplier any costs incurred by the Buyer in obtaining substitute goods from a third party; and
 - to claim damages for any other costs, loss or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 6.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6.3 The Supplier shall keep the Buyer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by the Buyer as a result of or in connection with:
- any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
 - any claim made against the Buyer by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
 - any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.
- 6.4 Condition 6.3 shall survive termination of the Contract.
- 6.5 The Buyer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7 PACKAGING MATERIALS

- 7.1 Unless otherwise agreed in writing, packing cases, boxes, drums, pallets and/or packing materials will not be paid for by the Buyer. It is the responsibility of the Supplier to collect any packing cases, boxes, drums, pallets and/or packing materials within a reasonable time after delivery.
- 7.2 The Supplier shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition. The Supplier shall promptly reimburse to the Buyer all additional costs reasonably incurred by the Buyer as a result of any inadequate packaging of the Goods.
- 7.1 The Supplier shall ensure that the Goods or any package or crate containing the Goods shows clearly, on the outside thereof, the Buyer's order number.

8 RISK AND TITLE

- 8.1 The Supplier warrants that it has good and valid title to the Goods being sold and that it may rightfully transfer title in the Goods to the Buyer.
- 8.2 The Goods shall be at the risk of the Supplier until delivered to and accepted by an authorised representative of the Buyer and found to be in accordance with the provisions of the Contract.
- 8.3 Title and risk in the Goods shall pass to the Buyer on completion of delivery.

9 PRICE AND PAYMENT

- 9.1 The price of the Goods and/or Services shall be the price set out in the Purchase Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 9.2 The price of the Goods and/or Services are exclusive of amount in respect of value added tax ("VAT"), but include the costs of carriage, insurance, import duties and taxes, and any other applicable duties and taxes and are not subject to escalation. No extra charges shall be effective unless agreed in writing and signed by the Buyer.
- 9.3 The Buyer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or performance of Services.
- 9.4 The Buyer shall pay the Supplier's invoice within 60 days of the end of the month in which it was received by the Buyer.
- 9.5 The Supplier may invoice the Buyer for the Goods/and or Services on or at any time after completion of delivery.
- 9.6 The Supplier shall not be entitled to assert any credit, set off or counterclaim against the Buyer in order to justify withholding payment of any such amount in whole or in part. The Buyer may, without limiting any other rights or remedies it may have, set off any amount owed to it by the Supplier against any

amounts payable by it to the Supplier under the Contract.

10 BUYER PROPERTY

- 10.1 The Supplier acknowledges that all materials, equipment and tools, drawings, specifications, and data supplied by the Buyer to the Supplier ("Buyer Materials") and all rights in the Buyer Materials are and shall remain the exclusive property of the Buyer. The Supplier shall keep the Buyer Materials in safe custody at its own risk, maintain them in good condition until returned to the Buyer, and not dispose or use the same other than in accordance with the Buyer's written instructions or authorisation.

11 INSURANCE

- 11.1 The Supplier shall take out and maintain, with a reputable insurance company, professional indemnity insurance, product liability insurance, and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12 CONFIDENTIALITY

- 12.1 The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are disclosed by the Buyer, its employees, agents, or subcontractors, and any other confidential information concerning the Buyer's business, its products or its services which the Supplier may obtain. The Supplier shall only disclose such confidential information to those of its employees, agents or subcontractors who need to know the same for the purpose of discharging the Supplier's obligations under the Contract, and shall ensure that such employees, agents or subcontractors shall keep such information confidential.

13 TERMINATION

- 13.1 The Buyer may terminate the Contract in whole or in part at any time before delivery or part delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Buyer shall pay the Supplier the price for Goods which have already been delivered to the Buyer or at the date of notice of termination are manufactured or ready for delivery or in transit and the cost of materials which the Supplier has purchased to fulfil the Purchase Order and which can not be used for other orders or be returned for a refund.
- 13.2 The Buyer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier becomes subject to any of the following events:
- the Supplier suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors, other than (where the Supplier is a company) these events take place for the sole purpose of a scheme for solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - (being an individual) the Supplier is the subject of a bankruptcy petition or order;
 - a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;
 - (being a company) a floating charge holder over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver;
 - a person becomes entitled to appoint a receiver over the Supplier's assets or a receiver is appointed over the Supplier's assets;
 - any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 13.2(a) to Condition 13.2(h) inclusive;
 - the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business;
 - the Supplier's financial position deteriorates to such an extent that in the Buyer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - (being an individual) the Supplier dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 13.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

14 FORCE MAJEURE

- 14.1 Neither party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under this agreement so long as, and to the extent to which, the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.
- 14.2 A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:
- notify the other party of the nature and extent of such Force Majeure Event; and
 - use all reasonable endeavours to remove any such causes and resume performance under this agreement as soon as feasible.
- 14.3 For the purposes of this Condition 14, a Force Majeure Event means an event beyond the control of a party (or any person acting on its behalf), which by its nature could not have been foreseen by such party (or such person), or, if it could have been foreseen, was unavoidable, and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources.

15 GENERAL

15.1 Assignment and sub-contracting

- The Buyer may at any time assign, transfer, charge, sub-contract or deal with in any other manner with all or any of its rights or obligations under the Contract.
- The Supplier may not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Buyer.

15.2 Notices

- Any notice or other communication given to a party under or in connection with a Contract shall be in writing, addressed to that party at its registered

office or its principal place of business or such other address as that party may have specified to the other party in writing in accordance with this Clause and shall be delivered personally sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.

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- (b) A notice or other communication shall be deemed to have been received if delivered personally when left at the address referred to in Condition 15.2 (a) if sent by pre-paid first class post or recorded delivery at 9am on the second Business Day after posting if delivered by commercial courier on the date and at the time a courier's delivery receipt is signed or is sent by fax or email one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance

- (a) If any Court or competent authority finds that any provision of the Contract or part of any provision is invalid, illegal or unenforceable that provision or part provision shall, to the extent required be deemed to be deleted and the validity and enforceability of the other provisions shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal valid and enforceable.

15.4 Waiver

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver from any subsequent breach or

default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy nor shall it preclude or restrict the further exercise of that or any other rights or remedies. No single or partial exercises of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15.5 Third party rights

A person who is not a party to the Contract shall not have any rights under or in connection with it. The Contracts (Rights of Third Parties) Act 1999 is thereby excluded.

15.6 Variation

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Buyer.

16 Governing Law and Jurisdiction

- 16.1 The Contract, and any dispute or claim arising out of or in connection with it or it's subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England & Wales.
- 16.2 For the avoidance of doubt, the United Nations Convention on the International sale of Goods shall not apply to the Contract. The international rules for the interpretation of tradeterms prepared by the International Chamber of Commerce (Incoterms), in force at the time of the Contract shall apply but where they conflict with the Contract, the Contract shall prevail.