

## 1. Definitions

In these conditions:

"Company" means the supplier of the Goods and/or Services;

"Customer" means the party with the Company contracts;

"Contract" means the contract made between the Company and the Customer for supply of the Goods and/or Services, which is the subject to these Conditions;

"Goods" means all and any of the goods works and materials to be supplied by the Company;

"Services" means any services to be performed by the Company;

"Act of Insolvency" means any one or more of the following namely the passing of a resolution of the presentation of a petition for winding-up, bankruptcy or for the appointment of an administrator, the appointment of a receiver and/or manager administrative receiver over the whole or any part of the Customer's undertaking or assets, the making of a proposal to the Insolvency Act 1986 or of a proposal for any other composition scheme or arrangement with the creditors or the calling by the Customer of any meeting of its creditors generally the levying of execution or distress or diligence on any of the Customer's assets the failure to pay its proper debts as and when due and anything analogous to any of the foregoing under the law of the Jurisdiction where the Customer is established.

## 2. Basis of contract

These Conditions shall form the terms and conditions of the Contract and shall apply to the exclusion of any terms of conditions whether put forward by or on behalf of the Customer in or on its order or otherwise or whether implied by the law (insofar as the exclusion of the same is lawful).

Any quotation for its information and shall apply for a maximum period of 30 days from its date. Unless expressly provided to the contrary quotations are not binding and shall not be open for acceptance by the Customer. Where Goods are quoted for supply from stock they are quoted subject to being used when the Customer's order is accepted. Without prejudice to the above the Customer reserves the right to increase the quoted price per unit for the Goods if the Customer orders less than the number of units upon which the quotation was based.

The Placing by the Customer of any order shall constitute an offer by the Customer. No contract shall come into existence unless the Company accepts the Customer's order in writing. Any order placed by the Customer with any of the Company's salesperson or other employee or representatives shall be subject to written acceptance by the Company.

No alteration to these Conditions shall be effective unless expressly agreed to in writing by the Company.

The Customer acknowledges that before entering into the Contract the Customer has expressly represented and warranted that the Customer is not insolvent and has not commenced or been subject to any Act of Insolvency.

Any typographical, clerical or other error or omission in any Memorandum, quotation, price list or order, invoice or other document or information issued by the Company shall be subject to any Act of Insolvency.

Upon acceptance by the Company of any order from the Customer, the Company will confirm details of the Goods and/or Services to be supplied. Unless the Customer notifies the Company within 5 days of receipt of such confirmation that the details are inaccurate, the Company will not be liable for the consequences of such inaccuracy and will not issue a credit note in respect of such order.

The Company reserves the right to levy a minimum order value of £250.

## 3. Information, samples and materials supplied

The Customer shall be responsible to the Company for ensuring the accuracy and sufficiency of its order (including any applicable specification and/or samples). The Company shall be entitled to charge the Customer for all costs (and a reasonable element of profit) incurred by it where variations to Goods and/or Services are requested by the Customer and accepted by the Company.

If any information (including where relevant artwork) supplied by the Customer differs in any material respect from conditions as they may in fact be or it transpires that there is a material error or omission in the Customer's instructions the Customer agrees to any testing or issues material additional instructions (including without limitation any changes in design or weight or specifications or as a result of any change in government specifications), the Company shall be entitled to terminate the Contract without liability and recover any costs incurred up to the date of termination or to take account of such matters and to vary the price.

Any samples or other tests which the Customer supplies or arranges to be supplied to the Company (including without limitation any items which are to be the subject of any services) shall be delivered at the Customer's sole risk and expense and shall remain at the Customer's risk and expense throughout the period such samples and other items are with the Company unless otherwise expressly agreed in writing by the Company.

Where samples are to be supplied by the Company, the Customer shall as soon as reasonably practicable and in any event within 30 days after receipt of the same return the Company that the samples are in all respects satisfactory or if any respect in which the samples are not satisfactory. In default of such notification the Company shall be entitled but not bound to proceed in the performance of the remainder of the Contract.

## 4. Delivery

Unless expressly stated to the contrary by the Company any time quoted by the delivery of all or any of the Goods and/or performance of all or any of the Services in an estimate and time shall not be of the essence. The Company shall not be liable for any failure to meet any such estimate nor for any loss of whatsoever nature resulting directly or indirectly therefrom unless specifically liquidated damages are agreed in writing by the Company.

The Company reserves the right to deliver a set of any of the Goods and/or Services in advance of the estimated date.

In the absence of written agreement to the contrary delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises as soon as practicable following notification from the Company that the Goods are ready for collection or, if some other place for delivery is agreed by the Company (e.g. its factory) by the Company delivering the Goods to that place.

The Company reserves the right to deliver by instalments and in absence of written agreement to the contrary each delivery shall constitute a separate contract to which these Conditions shall apply. Failure by the Company to deliver any one or more of the instalments in accordance with the Contract or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

If the Customer fails to take delivery of or collect the Goods or fails to give the Company adequate delivery instructions after notification by the Company that the Goods are ready the Company may (without prejudice to its other rights and remedies).

Store the Goods (on its own or any third party's premises) and charge the Customer for its reasonable costs (including without limitation VAT costs of storage, carriage and insurance); and/or

Sell the Goods at any time and after deducting all costs and expenses account to the Customer for any excess over the price already paid under the Contract or charge the Customer for any shortfall between the Contract price and such costs and expenses.

4.6.1 Where the Company is responsible for transportation to effect delivery, notification of short (measured by weight or number) must be made in writing to the Company within 5 days of the receipt of the Goods or in the case of delivery in transit, within 5 days of delivery or if later within 5 days of discovery of the said damage.

Notification of non-delivery must be made in writing to the Company within 3 days after the date of the Company's invoice. The Company shall be liable for any failure to meet any such estimate nor for any loss of whatsoever nature resulting directly or indirectly therefrom unless specifically liquidated damages are agreed in writing by the Company. In no event shall the Company be liable to the Customer in connection with any damage or loss in transit where delivery takes place at the Company's premises.

4.7 Where delivery of the Goods is to be made by the Company in bulk, the Company reserves the right to deliver up to 10 per cent more or less than the quantity ordered without any adjustment in the unit price, and the quantity so delivered shall be deemed to be the quantity ordered, and the Customer shall be charged for the Goods in accordance with the quantity actually delivered.

4.8 Save where the contrary is expressly agreed in writing all returnable containers and packing materials will be charged for. Credit will be given if these are returned in condition satisfactory to the Company to the Company's works carriage paid within thirty days following delivery of the relevant Goods.

The Company will be entitled to levy a £10.00 charge for repeated requests for copy proof if follows.

5. Description  
All descriptive and technical specifications, drawings, catalogues, illustrations and particulars of weight and dimensions supplied by the Company are approximate only. The Company reserves the right without notice to the Customer to make alterations thereto and to supply the Goods as ordered in performance of the Contract provided that such alterations do not materially affect the characteristics of the Goods.

The Customer warrants to the Company that the Goods are sufficient and suitable for the purpose or purposes intended (whether by the Customer or a third party).

## 6. Cancellation

Following acceptance by the Company of the Customer's order, no cancellation and/or suspension, either in whole or in part, may be made by the Customer other than with the prior written consent of the Company and upon terms that the Customer shall indemnify the Company in full against all loss (including without limitation loss of profit) damages, costs expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with the cancellation and/or suspension.

## 7. Price

Subject to prior written agreement to the contrary, the Company shall be entitled to increase the Customer for the price of the Goods on or at any time after the date the Company has notified the Customer that the Goods are ready for delivery. The Company may increase the price of the Goods at the annual rate of 4% over the base rate of the National Westminster Bank Plc will be charged on a daily basis on all monies outstanding after the due date until the actual date of payment (both before and after judgement), and any such discount will not be allowed to the Customer without prejudice to any other right the Company shall be entitled to recover from the Customer all expenses including legal costs rationally incurred in collection of any overdue sums.

## CONDITIONS OF SUPPLY

Unless otherwise expressly stated in writing, all prices are exclusive of VAT, which shall be charged where appropriate at the rate prevailing at the relevant tax point.

The Customer shall make payment in full in pounds sterling unless expressly stated to the contrary within thirty days following the date appearing on the Company's invoice (notwithstanding that the Company may have the right to suspend or withhold delivery of the Goods notwithstanding the above, the Company shall be entitled to recover from the Customer all expenses including legal costs rationally incurred in collection of any overdue sums).

Where payment is agreed to be made by instalments, any delay or default by the Customer in making payment in respect of any one instalment shall render all the remaining instalments due forthwith, and interest will be charged in accordance with condition 7.4 with immediate effect until the date of actual payment.

The Company may appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Company and the Customer) as the Company may think fit (notwithstanding any purported appropriation by the Customer).

## Risk and Title

Risk in the Goods shall pass to the Customer immediately on delivery to the Customer or into custody on the Customer's behalf whichever is the sooner.

Notwithstanding delivery and the passing of risk, property in and title to the Goods shall remain in the Company until the Company has received payment of the full price of all Goods and/or Services the subject of the Contract and (b) all other goods and/or services supplied by the Company to the Customer under any other contract whatsoever.

Until property in and title to the Goods passes to the Customer:

8.1.1 The Customer shall keep the Goods properly stored, protected and insured and separate from all or any other goods whether belonging to the Company or any third party;

The Company shall be entitled at any time forthwith to revoke the Customer's power to deal with the Goods; and it shall automatically cease if the Customer shall commit or be subject to any Act of Insolvency;

The Customer shall not make any modification to the Goods or their packaging or alter remove or tamper with any marks, number or other means of identification used on or in relation to the Goods.

Upon termination of the Customer's power to deal with the Goods the Customer shall place the Goods at the disposal of the Company and the Company and its servants and agents are hereby expressly authorised without the need for consent of any third party but using any such force as may be necessary, to enter upon any premises of the Customer for the purpose of removing the Goods.

## Transmission and endorsement

Without prejudice to any rights and remedies available to it, the Company shall be entitled, forthwith on written notice to the Customer either to terminate the Contract wholly or in part and/or any other contract with the Customer or to withhold performance of all or any of its obligations under the Contract and/or any other contract with the Customer (and on the giving of such notice all monies outstanding from the Customer from the Customer to the Company shall become immediately due and payable if:

any sum owing to the Company from the Customer on any account whatsoever shall be unpaid after the due date for payment (in which event the Customer shall have a general lien for any such sum on all and any property of the Customer in its possession);

the Customer shall commit or be subject to any Act of Insolvency;

the Customer shall accept any breach of any contract (including without limitation of the Contract) with the Company;

the Customer shall refuse to take delivery of or collect any of the Goods and/or to allow performance of the Services in accordance with the terms of the Contract;

it is reasonable opinion the Company considers the Customer's credit status to be unsatisfactory and the Customer refuses to provide any security for credit required by the Company.

In the event of a suspension of performance the Company shall be entitled to require, as a condition of resuming performance pre-payment or such other security as it may require.

## Warranty

The Company shall:

make good at its option by reimbursement of the whole or part of the price (and where relevant, as a deduction from any part of the price remaining unpaid)

subject to condition 5.1 any failure by the Goods to correspond with their specification at the time of delivery;

any defect developing under normal use in the Goods and due solely to faulty design (except where the design is supplied by or on behalf of the Customer) motorised and/or wearparts;

make good by reimbursement of the price or by re-performance of the Services any defective workmanship in the performance of Services;

provided that:

any failure to meet specifications is notified in writing to the Company within 30 days from the date of delivery or (where the failure was not apparent on reasonable inspection) forthwith after discovery of the failure and in any event such failure and in any event such failure must be notified within 12 months after delivery;

any such defect in design materials workmanship shall have appeared within 12 months after delivery and it shall have been thereupon notified to the Company in writing forthwith;

the Company shall be under no liability in respect of any defect in the Goods arising from any drawings, design or specification supplied by the Customer;

the Company shall be under no liability in respect of any defect arising from fair wear and tear, or either side of the Customer's undertaking, willful damage, negligence, lack of proper maintenance or servicing, abnormal working conditions, failure to follow the Company's instructions (including not or in writing), misuse or alteration or repair of the Goods without the Company's approval;

the Company shall be under no liability until any monies due from the Customer under the Contract have been paid in full;

any Goods alleged to be defective are promptly made available to the Company for inspection and if so required by the Company are promptly returned at the Customer's risk and expense to the Company's works for inspection;

the above warranty does not extend to parts, materials or equipment not manufactured by the Company in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company and can be transferred;

save where the contrary is expressly agreed in writing by the Company the Company accepts no liability in the event that the Goods or Services suffer any future of malfunctioning in conjunction with the leases relating to year 2000 conformity as that term is explained in the British Standards Institute document DISC 2000-1 or any revision or amendment thereof nor are the Goods and/or Services warranted to be suitable for use in conjunction with the European currency proposed by European Monetary Unit.

Provided that this warranty shall only apply if the Customer forthwith notifies the Company in writing of any claim made against the Customer in respect of the Goods and/or Services by any third party the Company is given full control of any proceedings or negotiations in connection with any such claim. The Customer shall give the Company all reasonable assistance for the purpose of any such proceedings or negotiations and except pursuant to that award the Customer shall not pay or accept any such claim or proceed with such proceedings without the consent of the Company (which shall not be unreasonably withheld). The Customer shall do nothing, which would or might vitiate any policy of insurance or insurance cover, which the Company may have in relation to such claim.

10.3 Further provided that nothing in this Condition shall operate so as:

10.3.1 to exclude the Company's non-excludable liability in respect of death or personal injury caused by the negligence of the Company as servants or agents;

10.3.2 to affect the statutory rights of the Customer where Goods are sold or Services are supplied to a Customer dealing as a consumer within the meaning of Unfair Contract Terms Act 1977;

10.3.3 to exclude the application of Section 12 of the Sale of Goods Act 1979;

10.3.4 to exclude liability for fraudulent misrepresentation.

10.4 The Company shall not be liable to the Customer in contract tort of delict (including without limitation negligence) and/or breach of statutory duty for any loss or damage which the Customer may suffer by reason of any act omission neglect or default (including without limitation negligence) in the performance of the Contract by the Company its servants or agents, in a sum which is greater than the Contract price or £500,000 whichever is the lesser.

The Company shall not be liable for consequential loss or delict (including without limitation negligence) and/or breach of statutory duty for any indirect or consequential including economic loss of any kind which the Customer may suffer by reason of any act, omission, neglect or default (including without limitation negligence) in the performance of the Contract.

## Payment Terms

Payment shall be made strictly in accordance with the Terms upon which a credit account was extended and without regard to any equity set-off or Counterclaim.

The Company reserves the right to charge interest on late payment at late payment at 4% above the National Westminster Bank base rate to be accrued daily.

## Health & Safety

For the purposes of Section 6(6) of the Health and Safety at Work Etc Act 1974 the Customer undertakes to comply with all instructions relating to the Goods received from the Company from time to time and to take such other steps sufficient to ensure, so far as is reasonably practicable, that the Goods will at all times be safe and without risk to health when being properly used, set, cleaned and maintained by a person at work.

## Intellectual Property Rights

If any claim is made against the Customer that the goods infringe or that their use or resale infringes the patent, copyright, design right, registered design, trade mark relation to the Goods and/or Services and/or their use or resale the Customer shall forthwith notify the Company in writing and the Company shall be given full control of any proceedings or negotiations in connection with any such claim or proceedings or negotiations and except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld). The Customer shall do nothing which might vitiate any policy of insurance or insurance cover which the Company may have in relation to such infringement.

If the Goods are to be manufactured or any process is to be applied to be applied to the Goods by the Company in accordance with a specification submitted by the Customer, the Customer shall (without prejudice to the other rights and remedies of the Company) indemnify the Company in full against all loss, costs, damages, charges, expenses and other liabilities awarded against or incurred by the Company as a result of or in connection with:

12.1 any claim for infringement of any patent, copyright, design right, registered design, trade mark or other industrial or intellectual property rights of any other person and/or for passing off and/or unauthorised use of confidential information which results from the Company's use of the Customer's specifications; any other liability of any kind to any third party includes without limitation for defective Good. Personal injury or death to the extent that it arises from the specification.

## Report Terms

If any term or expression which is defined in or given a particular meaning by the provisions of Instruments shall have the same meaning in these Conditions, but in the event of conflict these Conditions shall prevail.

Where the Goods are supplied to export from the United Kingdom, the provisions of this condition 13 shall (subject to any special terms agreed in writing between the Company and the Customer) apply notwithstanding any other provision of these Conditions.

Unless otherwise agreed in writing between the Company and the Customer, the Goods shall be ex works and the Company shall be under no obligation to give notice under section 32(3) of the sale of Goods Act 1979.

The Customer shall be responsible for arranging for testing and inspection of the goods at the company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the goods, which would be apparent on testing, or inspection and which is made after shipment, or in respect of any damage due to transit.

Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a UK bank, acceptable to the Company or, if the Company has agreed in writing on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer and delivery to the Company of a bill of exchange drawn on the Customer payable 60 days after sight to the order of the Company at such branch of National Westminster Bank Plc as specified as may be specified in the bill of exchange.

## Contracts for Services

If the Contract is for or to include Services to be performed by the Company the following provisions shall apply -

Unless expressly provided to the contrary the Company shall only be obliged to carry out Services during normal working hours and shall be entitled to charge for any overtime work upon request by the Customer.

Where Services are performed at the premises of the Customer, the Customer shall provide free of charge-

Proper and safe storage and protection of all Goods, tools, plant, equipment and materials on site.

Free and safe access to the site and place where the Services are to be performed.

All facilities and services necessary to enable such Services to be performed safely and expeditiously.

If such Services include the installation of Goods, all builders work foundations and other work and making good when necessary.

The availability of all plant and equipment to permit the Goods to be tested upon completion of Services.

The Customer shall pay the Company any expenses incurred by the Company by reason of a breach by the Customer of any of its obligations in this condition without prejudice to the Company's right to recover any loss thereby occasioned.

Goods and Services supplied to the site of the Customer are at all times at the sole risk of the Customer and if any part is lost or destroyed for any reason whatsoever the Company shall be entitled to charge as a variation to the Contract for the restoration of such Goods and/or Services. The Customer shall for the benefit of itself and the Company insure and keep insured with reputable insurers the full value of Goods and Services against every insurable kind of loss, damage or destruction. The Customer shall produce the policy of insurance to the Company upon request together with evidence of the latest premium payments and in default of effecting the same the Company shall be entitled to do so and add the costs of such insurance to the Contract price.

The Customer shall at its own cost maintain public liability insurance with a minimum limit of liability of £45 million per incident with insurers of the highest repute and shall provide the policy of insurance to the Company upon request together with evidence of the latest premium payments.

## Disputes/Tools

Any tool mould or die (hereinafter together referred to as "Dies") provided entirely or partly at the Company's expense shall be and remain the Company's property and in its possession at all times, even when the Customer has been debited with part cost. Where the cost of a die is paid for in full by the Customer the Die is the property of the Customer.

Dies in respect of which the Customer has paid part cost will not be used for any other customer without the Company's written consent.

Die shall (subject to condition 15.5) be stored and maintained during their normal useful life at the Company's expense but while all reasonable care will be taken in maintenance the Company does not undertake to replace worn out Dies nor any responsibility for any such loss or damage.

The Customer shall have the option, subject to the obligations of the Customer having been fully met by the Customer of purchasing outright any dies obtained on a part cost basis of an additional charge of 25 per cent over and above the original part cost price paid for the Die if for any reason the Company is unable or unwilling to continue to supply replacement from the said tool after completion of the Contract.

The Company shall have the right to destroy Dies which have not been used for a period of two years on giving the Customer three month's notice in writing.

Where Dies are obtained otherwise than on the basis of payment by the Customer of full part cost, the Company reserves the right to utilize or dispose of such dies in any manner it may deem expedient upon termination of the Contract.

In the event of Dies being provided by the Customer, the Company is entitled to request liability for the repair or maintenance thereof or for any damage thereto sustained through the process of manufacture, and the Company shall be entitled to make a charge against the Customer for renewal of Dies or parts thereof if and when it becomes necessary.

Where the Company is requested to prepare Dies before a firm order has been placed the cost of preparing such Dies shall be borne by the person, firm or company making such request.

16.0 If the Customer orders less of the Goods than is specified in the Company's quotation or fails to take delivery of such full quantity within the period stated in the quotation the Company shall be entitled to charge to the Customer the whole or a proportionate part of the costs of making the Dies as the Company thinks fit taking into account any part cost already paid by the Customer.

16.10 When a Die is made created to the Customer's drawing or sample, the Customer shall pay in full the cost of any subsequent alteration made to it (request).

## General

It shall be the responsibility of the Customer to ensure that all requirements applicable to the Contract, whether statutory, regulatory, municipal and/or otherwise howsoever, (including without limitation any relating to the importation or use of the Goods in the country of destination and for the payment of duties thereon) are duly complied with. It shall be a condition precedent to the performance by the Company of its obligations under the Contract that all necessary licences, permits and consents shall have been obtained by the Customer.

Without prejudice to the generality of condition 16.1 the obtaining of any relevant exchange control consents shall be a condition precedent to the performance by the Company of any of its obligations under the Contract.

Neither party shall have any liability for any failure to perform or for any delay in the performance (other than as to payment) of, any of its obligations under the Contract caused by any factor beyond its reasonable control.

No failure or delay on the part of the Company to exercise any of its rights under the Contract shall operate as a waiver of or shall in any way alter by the Company of any breach by the Customer of any of its obligations under the Contract affecting the rights of the Company in the event of any further or continuing breach.

The Contract is personal to the Customer, who shall not assign or in any way part with the benefit without the Company's prior written consent.

Each and every obligation contained in these Conditions shall be treated as a separate obligation and shall be severally enforceable as such notwithstanding the non-enforceability of any other such obligation.

The clause headings in these Conditions are for convenience only and shall not in any way affect the interpretation of the Contract.

The Conditions and the Contract shall not create or evidence, or be deemed to create or evidence, any agency or partnership between the Company on the one hand and the Customer or any third party on the other.

Any notice required to be given in writing under the Contract shall be given, where possible, by facsimile transmission and otherwise by first class post addressed to the address of office or in the case of non-office Customers to the last known address, or to such other address as may be notified in writing in accordance herewith for the purpose, and shall be deemed to have been received, in the case of a facsimile transmission, upon transmission and, in the case of a letter, forty-eight hours after posting. In proving services by letter, it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted.

The Contract shall be governed by English Law.

The parties irrevocably submit to the exclusive jurisdiction of the English Courts, save in the case of a Customer who has no assets within the jurisdiction of the English Courts and is established in a country under whose legal system the jurisdiction of the English Courts cannot be enforced. In those circumstances the Company may if it chooses refer any disputes arising out of the Contract to arbitration under the rules of Conciliation and Arbitration of the International Chamber of Commerce.