

# **Standard Conditions of Purchase Issue 2**

## Change History

Issue Authorisation	Date	Change
1	25/11/13	New Format
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Owner and approved by: Cally Potkins (Purchasing Manager)

Signature: 

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## 1. Definitions

- 1.1 the "Articles" means the items specified in the Order
- 1.2 "Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise required) includes any special terms and conditions agreed in Writing between the Company and the Supplier.
- 1.3 "the Contract" means the contract for the sale and purchase of the Articles and the supply and acquisition of the Services and shall incorporate the Order, any specifications, drawings or Conditions and all terms and conditions implied by law.
- 1.4 "Equipment" means the equipment provided to the Supplier by the Company for performance of the contract.
- 1.5 "Intellectual Property" means any patent, copyright, registered design or unregistered design right and any application for any of the foregoing any rights in respect of confidential information and any other intellectual property rights.
- 1.6 "the Order" means this purchase order
- 1.7 "Services" means the services (if any) described in the Order.
- 1.8 "Writing" includes facsimile transmission.
- 1.9 "Price" means the total price of the Articles and/or the charge for the Services.
- 1.10 "Improvement" means any development, enhancement or derivative of the Articles, or their design or manufacturing process, which would make the Articles cheaper, more effective, more useful or more valuable, or would in any other way render the Articles preferable in commerce.

## 2. Basis of Purchase

- 2.1 Liability for orders purported to be given by the Company will not be accepted unless the orders are issued on the Company's official printed order form.
- 2.2 The Order constitutes an offer by the Company to purchase the Articles and/or acquire the Services subject to these Conditions.
- 2.3 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Company and the Supplier.
- 2.4 These Conditions shall apply to the Contract to the exclusion of any other terms or conditions on which any quotation has been given to the Company or subject to which the Order is accepted or purported to be accepted by the supplier.

## 3. Delivery

- 3.1 The Supplier shall at his expense adequately pack and protect the Articles against damage and deterioration and deliver them carriage paid to the Delivery address on the date or within the period specified in the Order. The Services shall be performed at the relevant Delivery Address on the date or within the period specified in the Order. The time of delivery of the Articles and of performance of the Services is of the essence of the Contract. If the Articles are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.
- 3.2 The Supplier shall be responsible for any expenses incurred to re-deliver any incorrectly delivered Articles to the Delivery Address or to return any Articles delivered in excess of the quantity specified in the Order.
- 3.3 The Company shall be entitled to reject any Articles delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Articles until the Company has had reasonable time to inspect them following delivery, or if later, within a reasonable time after any latent defect in the Articles has become apparent.

#### **4. Advice notes, Invoices and Packaging**

- 4.1 Advice notes quoting the Order number and other relevant details are to be forwarded with the Articles and must be displayed prominently. All invoices are to quote the Order number and the advice note number. V.A.T where applicable is to be shown separately on all invoices as a strictly nett charge.
- 4.2 The Supplier shall mark the outside of each package with his name and the Order number.

#### **5. Price**

- 5.1 The Price of the Articles and the Services shall be as stated in the Order and, and unless otherwise stated shall be:
  - exclusive of any applicable V.A.T; and
  - inclusive of all charges for packaging, insurance and delivery of the Articles to the Delivery Address and any other costs other than V.A.T.

#### **6. Terms of Payment**

- 6.1 Unless otherwise stated in the Order provided the Articles have been supplied and/or the Services performed in accordance with the Contract the Company shall pay the Price of the Articles and/or the Services within 30 days after the end of the month of receipt by the Company of a proper invoice from the supplier or, if later after acceptance of the Articles and/or the Services in question by the Company.

#### **7. Passing of Title and Risk**

- 7.1 Title to the Articles shall pass to the Company when the Company pays the Price of the Articles.
- 7.2 Notwithstanding the passing of title, risk in the Articles shall pass to the Company upon delivery to the Company in accordance with the Contract.
- 7.3 Passing of title and risk in the Articles to the Company is without prejudice to the Company's right of rejection under these Conditions and, upon such rejection title and risk shall repossess to the Supplier.

#### **8. Inspection and Testing**

- 8.1 The Company's representative and, its customer shall be entitled on the Company's authority to inspect or test the Articles during manufacture, processing or storage at the premises of the Supplier or any third party and the Supplier shall provide the Company and its customer with all facilities for inspection and testing. If as a result of inspection or testing the Company is not satisfied that the Articles will comply in all respects with the Contract the Company shall inform the Supplier within 7 days of inspection or testing and the Supplier shall take such steps as are necessary to ensure compliance.
- 8.2 The Supplier shall give adequate notice of all tests and furnish such test certificates as the Company requires.
- 8.3 No inspection or test or failure to inspect or test shall constitute acceptance of the Articles or affect any liability of the Supplier or any rights of the Company under the Contract.

## 9. Equipment

- 9.1 All Equipment shall remain the absolute property of the Company and for so long as it is in the possession or control of the Supplier it shall be at the sole risk of the Supplier. The Supplier shall accordingly ensure that all Equipment is properly and securely retained and identified as the property of the Company, and shall not part with possessions of it, or make it available, to any third party.
- 9.2 All Equipment shall be maintained and kept in good repair by the Supplier and shall not be used by the Supplier except for manufacture in accordance with the Contract.
- 9.3 The Supplier shall maintain with a reputable insurance company insurance over for the replacement cost of the Equipment and shall have the Company's interest noted on the policy.
- 9.4 The Supplier shall return the Equipment to the Company, at the Company's expense, within 7 days of receiving the Company's request to do so.

## 10. Warranty and Liability

- 10.1 The Supplier warrants to the Company that the Articles:
- will be of merchantable quality and fit for any purpose held out by the Supplier or made known to the Supplier at the time the Order is placed;
  - will be free from defects in design, material and workmanship;
  - will correspond with any relevant specification or sample; and
  - will comply with all statutory requirements relating to the sale of the Articles and all requirements of the Contract.
- 10.2 The Supplier warrants to the Company that the services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Company to expect in all the circumstances.
- 10.3 Without prejudice to any other remedy, if any Articles or Services are not supplied or performed in accordance with the Contract, the Company shall be entitled:
- to require the Supplier to repair the Articles or to supply replacement Articles or Services in accordance to the Contract within 7 days; or
  - at the Company's sole option, and whether or not the Company has previously required the Supplier to repair the Articles or supply any replacement Articles or Services, to treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the Price which has been paid.
- 10.4 The Supplier shall indemnify the Company in full against all liability, loss, damages, costs and expenses (including legal expenses) incurred by the Company or awarded against the Company or incurred or paid by the Company as a result of or in connection with:
- breach of any warranty given by the Supplier in relation to the Articles or the Services;
  - any claims that the Articles infringe, or their importation use or resale, infringes the intellectual Property rights of any other person;
  - any act or omission of the Supplier or its employees in supplying, delivering and installing the Articles;
  - any act of omission of any of the Supplier's personnel in connection with the performance of the Services;
  - any liability under the Consumer Protection Act 1987 in respect of the Articles.
  - The acceptance of all orders is subject to the express term that materials used and goods supplied, whether for use in the United Kingdom or for export, are guaranteed for 12 months or for such other period as we may specify from the date of delivery against breakdown and/or failure of any description due to defective materials or manufacture. We shall be entitled to replace the defective items at the cost of the

Suppliers or call upon you to do so at your own cost without prejudice to our right to claim damages for breach of contract in event of such breakdown and/or failure.

## **11. Insurance**

The Supplier shall at all times be adequately insured with a reputable insurer against all insurable liability under the Contract. At the Company's request the Supplier shall provide the Company with a copy of the relevant insurance policy.

## **12. Intellectual Property**

- 12.1 The Company authorised the Supplier to use any Intellectual Property disclosed pursuant to the Contract for the purposes of performing its obligations under the Contract. The Supplier shall have no rights in respect of any of the Intellectual Property otherwise than in accordance with the Contract.
- 12.2 The title to and all Intellectual Property rights in respect of any improvement conceived, originated, made, developed or acquired by the Supplier pursuant to the Contract shall belong to the Company and the Supplier shall disclose full details of any such improvement within one month from its discovery. The Supplier shall take steps as the Company may reasonably require to assign to the Company all right, title and interest in and to such improvement.

## **13. Work on the Company's Premises**

- 13.1 When the Order provides for work to be done on the Company's premises, the Supplier:
- shall ensure that its representatives comply with the Company's factory regulations and the safety requirements applicable to the site, the security regulations applicable to the Company's premises and any instructions issued by the Company shall have the right to require the removal of anyone from its premises and reserves the right to refuse entry to any person for any reason; and
  - shall not begin to perform the work pursuant to the Contract unless authorised to do so in Writing by the Company's authorised representative.

## **14. Confidential Information**

- 14.1 The Supplier shall not either during the period of the Contract or any subsequent time, disclose to any person any information disclosed to its pursuant to the Contract and shall use its best endeavours to keep the same confidential(whether marked as such or not), except as provided by Clause 14.2.
- 14.2 Any information referred to in Clause 14.1 may be disclosed to any employee of the Supplier to such extent as is necessary for the purposes of the Contract. Any employee to whom such disclosure is made shall be required to observe the same restrictions of the use of the information as set out in Clause 14.1.

## **15. Termination**

- 15.1 The Company shall be required to cancel either the Order of the contract in respect of all or part only of the Articles and/or the Services by giving notice in Writing to the Supplier at any time prior to delivery of performance in which event the Company's sole liability shall be to pay the Supplier the Price for the Articles or Services in respect of which the Company has exercised its right of cancellation less the Supplier's net saving of cost arising from cancellation.

- 15.2 The Company shall be entitled to terminate the Contract without liability to the Supplier by giving notice to the Supplier at any time if:
- the Supplier makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986 or (being a company) becomes subject to an administration order or goes into liquidation (otherwise for the purpose of amalgamation or reconstruction));
  - an encumbrances takes possession, or a receiver is appointed, of any of the property or assets of the Supplier;
  - the Supplier ceases or threatens to cease to carry on business;
  - the Supplier commits any continuing or material breach of any provision of the Contract, and in the case of a breach which is capable of remedy, fails to remedy the same within 30 days after a receipt of a notice in Writing giving full particulars of the breach and requiring it to be remedied; or
  - a change occurs in the ownership or control of the Supplier; or
  - the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.

## **16. Assignment**

- 16.1 The Order is personal to the Supplier and the Supplier shall not assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.
- 16.2 The Company reserves the right to assign or transfer any or all of its rights and obligations under the Contract without the prior written consent of the Supplier.

## **17. Notices**

Any notice to be given in these Conditions shall be in Writing addressed to the receiving party as its business address as last notified in Writing to the other party and shall be deemed to have been given in the case of a notice sent by facsimile transmission on the date of transmission (provided that a transmission report is obtained confirming receipt) or, in the case of a notice sent by post (which has not been returned to the sender as undelivered) on the following day after the envelope containing the same was so posted (and proof that the envelope containing the notice was properly addressed, and sent by first class, pre-paid post, and that it has not been so returned to the sender, shall be sufficient evidence that such notice has been duly given).

## **18. Force Majeure**

Neither the Company nor the Supplier shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform, any of its obligations under the Contract if the delay or failure was caused by Act of God, explosion, flood, tempest, fire, accident or Government action.

## **19. Waiver**

No waiver, indulgence or allowance by the company shall thereafter prevent it from insisting on all its rights hereunder.

## **20. Law and Construction**

The Contract shall be governed by the laws of England.





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