

TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. AGREEMENT

1.1 The Supplier shall supply and the Customer shall purchase the Goods in accordance with the terms of this Contract; and

1.2 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

2. DEFINITIONS AND INTERPRETATION

2.1 In this Contract, unless the context otherwise requires, the following expressions have the following meanings :

“Accept” or “Acceptance” means the acceptance in writing of an Order by an authorised representative of the Supplier;

“Business Day” means any day other than a Saturday, Sunday or bank holiday;

“Commencement Date” means the commencement date for the Contract as set out in the Supplier’s written acceptance of the Customer’s Order;

“Confidential Information” means information which is disclosed to either Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);

“Contract Price” means the price stated in the Quotation payable for the Goods, and any variations agreed between the Parties in writing;

“Customer” means the party named in the Order. Where the Customer consists of two or more persons such expression shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons;

“Delivery Date” means the date on which the Goods are to be delivered as stipulated in the Order and accepted by the Supplier;

“Goods” means the Goods (including any installment of the goods or any parts for them) which the Supplier is to supply in accordance with this Contract;

“Intellectual Property” Means all intellectual property rights, including but not limited to patents, copyright, design rights and trademarks;

“Materials” means any and all models, plans, sketches, drawings, diagrams, graphs, calculations, photographs, designs, brochures, notes of meetings, reports, specifications, bills of quantities, calculations and other similar documents whether in hard copy, on disk or any other computer generated format on any magnetic or optical storage medium prepared by or on behalf of the Supplier (whether in existence or to be made) in connection with this Contract;

“**Month**” means a calendar month;

“**Order**” means the Customer’s offer to purchase Goods and/or Services.

“**Quotation**” means the quotation provided to the Customer by the Supplier;

“**Supplier**” means the specific business with which the contract is placed. Any other parent or associated company is completely removed and carries no interest or liability. For the avoidance of doubt ‘Ainscough Industrial Services Limited’ does not accept or engage in any contracts with any client at any time.

2.2 Unless the context otherwise requires, each reference in this Contract to :

- a) “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- b) a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- c) a Clause or paragraph is a reference to a Clause of this Contract;
- d) a “Party” or the “Parties” refer to the parties to this Contract.

2.3 The headings used in this Contract are for convenience only and shall have no effect upon the interpretation of this Contract.

2.4 Words imparting the singular number shall include the plural and vice versa.

2.5 References to any gender shall include the other gender.

3. MISTAKES IN INFORMATION

3.1 If additional costs or delay are directly occasioned by any discrepancies, errors or omissions in the information and decisions provided to the Supplier by the Client, the Client shall pay any such additional costs to the Supplier and shall allow an extension of any time specified in Schedule 2 to complete the Services.

4. BASIS OF SALE

4.1 The Supplier’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

4.2 No variation of this Contract shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

4.3 No contract for the sale of the Goods shall be binding on the Supplier unless the Supplier has Accepted an Order placed by the Customer by whichever is the earlier of:

- a) the Acceptance;
- b) delivery of the Goods; or
- c) provision of an invoice by the Supplier to the Customer.

5. COMPANY'S OBLIGATIONS

5.1 Nothing in this agreement will create any relationship of employer/employee. The Supplier is not the servant or agent of the Customer.

6. THE GOODS

6.1 No Order shall be deemed to be Accepted by the Supplier unless and until its acceptance is confirmed in writing by the Supplier.

6.2 The specification for the Goods shall be that set out in the Quotation unless any variations expressly described in the Order are Accepted by the Supplier.

6.3 The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.

6.4 No order which has been Accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of such cancellation.

7. PRICE

7.1 Where the Supplier has quoted in writing a price for the Goods other whether in the Quotation or elsewhere, the price quoted shall be valid for 30 days only or such lesser time as the Supplier may specify.

7.2 The Supplier reserves the right, by giving written notice to the Customer at any time before delivery or provision, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture, increase in taxes), any change in delivery dates, quantities or specifications for the Goods which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

7.3 Except as otherwise agreed in writing between the Customer and the Supplier, all prices exclude delivery and VAT which shall be chargeable at the prevailing rate.

7.4 In the event that the Supplier provides an invoice(s) without charging VAT and subsequently it transpires that VAT is chargeable on the invoiced goods, the Supplier reserves its right to charge separately for such VAT and shall be entitled to charge retrospectively for VAT not previously charged on an any invoice(s).

7.5 The Contract Price is exclusive of any applicable value added tax, excise, sales taxes, port dues or levies of a similar nature which are imposed or charged by any competent fiscal authority or any other taxes payable in respect of the Goods, which the Customer shall be additionally liable to pay to the Supplier.

7.6 The Supplier shall not be liable for extra cost incurred as a result of supplying Goods outside of mainland Britain. The following are described inter alia as extra costs :

- a) Costs of airfreight, shipping and transport to return/replace faulty or damaged Goods to the Supplier for replacement or repair.
- b) Travel, including time incurred during travel, accommodation and local travel expenses of the Supplier's personnel incurred as a result of inspection, rectification, replacement or recommissioning.
- c) Cost of duties, taxes or levies imposed as a result of the supply of replacement Goods.

8. PAYMENT

8.1 The Supplier shall invoice the Customer for the supply of Goods on or at any time after the Goods are delivered to Site.

8.2 The due date for the payment of each invoice shall be the date of the invoice and the final date for payment of each invoice shall be 30 days after the due date unless otherwise agreed in writing. Payment shall be made by the final date for payment notwithstanding that delivery or provision may not have taken place and/or that the property in the Goods has not passed to the Customer. The time for the payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

8.3 All payments shall be made to the Supplier as indicated on the invoice issued by the Supplier.

8.4 The Supplier is entitled to request references from the Customer. If at any time the Supplier is not satisfied as to the creditworthiness of the Customer it may give notice in writing to the Customer that no further credit will be allowed to the Customer in which event no further goods will be delivered or provided to the Customer other than against cash payment and notwithstanding any other term of this Contract, all amounts owing by the Customer to the Supplier shall be immediately payable in cash.

8.5 All invoices will be provided either electronically or by first class postage in the United Kingdom. All overseas invoices will be provided by email or facsimile unless otherwise agreed with the Customer in writing, in which case courier delivery will be charged at cost.

9. DELIVERY AND PERFORMANCE

9.1 Any estimated delivery date is approximate only and time shall not be of the essence in relation to such estimate unless previously agreed in writing between the Parties.

9.2 Unless otherwise agreed in writing, the Customer shall collect the Goods from the Supplier's premises within seven days of notification by the Supplier that the Goods are ready for collection.

9.3 If the Customer fails to collect the Goods or any part of them within seven days of notification, or in the case of delivery by the Supplier, the Customer wrongfully fails to take delivery of the Goods, the Supplier shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods and, notwithstanding any other provisions of this Contract, risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay forthwith to the Supplier the Contract Price plus all costs and expenses including storage and insurance charges arising from such failure.

9.4 The Supplier shall be entitled to dispose of the Goods on or after the 60th day of storage of the Goods. The Contract Price plus any additional costs as required by this Contract shall still be payable to the Supplier by the Customer after the disposal of the Goods.

10. SERVICES AND INTELLECTUAL PROPERTY

10.1 In the absence of written agreement to the contrary, all rights, title to, and interest in all Intellectual Property and Materials which are developed, designed or generated by the Supplier in the performance of this contract with the Customer shall vest in and belong to the Supplier as legal and beneficial owner. Provided that the Customer has paid all payments properly due to the Supplier pursuant to clause 8, the Customer is granted a non-exclusive, royalty free, non-assignable licence to use such Intellectual Property and the Materials to facilitate its use of the Goods.

10.2 Notwithstanding the above, the Customer shall not be entitled to copies of the Supplier's designs unless otherwise agreed in writing. Where such designs are provided, the licence at clause 10.1 above does not entitle the Customer to fabricate copies of the Goods, nor shall it be entitled to procure that an alternative supplier manufactures such copy Goods on its behalf.

10.3 All rights, title to, and interest in Intellectual Property which are developed, designed or generated by the Customer shall vest in and belong to the Customer. The Supplier is granted a non-exclusive, royalty free licence to use such Intellectual Property to fulfil its obligations under this Contract.

10.4 The Supplier is not responsible for any use of the Materials other than that for which they were prepared.

11. RISK AND RETENTION OF TITLE

11.1 Risk of damage to or loss of the Goods shall pass to the Customer at :

- a) in the case of Goods to be collected from the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are available for collection;
- b) in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods.

11.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of this Contract, legal and beneficial title to the Goods shall not pass to the Customer until the Supplier has received in cleared funds payment in full of the Contract Price.

11.3 Until payment has been made to the Supplier in accordance with this Contract and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.

11.4 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and

payable.

11.5 The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of other clauses within this contract.

12. ASSIGNMENT

12.1 The Supplier may assign the Contract or any part of it to any person, firm or company without the prior consent of the Customer.

12.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

13. DEFECTIVE GOODS

13.1 In the event that any of the materials, goods or components supplied by the Supplier as part of the work scope comprised within the Contract Price or a Variation are defective, then if agreed to be defective by the Supplier, these will be replaced by the Supplier at the Supplier's cost provided that the Customer gives written notice of the defect and this is received by the Supplier within 5 days of the date of delivery of the defective goods. In the event that written notice is not given by the Customer or received by the Supplier within 5 days of the date of delivery of any goods considered to be defective, then the Supplier shall have no liability to replace them at its cost.

13.2 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any willful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Supplier's prior approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.

13.3 Subject as expressly provided in this Contract, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

13.4 The Customer shall be responsible for ensuring that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labeling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory requirements and that handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this condition.

14. CUSTOMER'S DEFAULT

14.1 If the Customer fails to make any payment by the final date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to :

- a) cancel the order or suspend any further deliveries or provision of Goods and Services to the Customer; and
- b) charge the Customer interest from the final date for payment (both before and after any judgment) on the amount unpaid, at the rate of 6% per

annum above Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

14.2 Without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to terminate the Contract or suspend any further deliveries under the Contract without any liability to the Customer where :

- a) the Customer becomes subject to an administration order or enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986 or the Insolvent Partnerships Order 1994 (as amended) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation;
- b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer;
- c) the Customer ceases, or threatens to cease, to carry on business; or
- d) the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

and if the Goods have been manufactured but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15. LIABILITY

15.1 The Goods shall be of satisfactory quality as defined in section 14 of the Sale of Goods Act 1979 (as amended or replaced from time to time).

15.2 Any defects in equipment supplied by the Customer remain the responsibility of the Customer and the Supplier shall be under no liability in respect of defects in the Goods arising from any drawing, design or specification supplied by the Customer or that are due to the failure or design of other equipment of the Customer with which the Goods interact, or failure of electrical supply or any other related services or systems.

15.3 The Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of the Contract, be liable for any pure economic loss, loss of profit, loss of business, depletion of goodwill or any other indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) which arise out of or in connection with this Contract.

15.4 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are excluded from the Contract to the fullest extent permitted by law.

15.5 The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by arising from loss or damage to any equipment (including that of third parties) caused by the Customer, its agents or employees.

15.6 The Supplier shall not be liable to the Customer or be deemed to be in breach of this Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

15.7 Under no circumstances whatsoever, and irrespective of the basis of the quotation provided by the Supplier and accepted by the Customer, will the Supplier be liable for direct or indirect consequential losses (including economic loss and loss of profit) attributable to loss of or damage as a result of the goods provided.

15.8 Nothing in this Contract excludes or limits the liability of the Supplier :

- a) for death or personal injury caused by the Supplier's negligence;
- b) for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or
- c) for fraud or fraudulent misrepresentation.

15.9 Notwithstanding any other provision of this Contract, the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price or the sum of £25,000.00, whichever is the lesser.

16. INSOLVENCY AND BANKRUPTCY

16.1 If either party shall become insolvent or bankrupt, or have a receiving order or administration order made against it or compound with its creditors or, being a corporation, commence to be wound up (not being a members' voluntary winding up for the purpose of reconstruction or amalgamation) or carry on its business under an administrator or administrative receiver for the benefit of its creditors or any of them, the other party shall be at liberty either

- a) to terminate the Contract forthwith by notice in writing to the other or to the administrative receiver or administrator or liquidator or to any person in whom the Contract may become vested,
- or
- b) to give such administrative receiver, administrator, liquidator or other person the option of carrying out the Contract subject to their providing of a guarantee for the due and faithful performance of the Contract up to an amount to be agreed.

17. TERMINATION

17.1 If either party is in breach of its obligations under the Contract and fails to remedy the breach within 14 days (or such longer reasonable period as may be specified) of receiving a written notice to remedy the breach, then the Contract can be terminated forthwith by the party not in default without prejudice to the accrued rights of the parties.

18. CONFIDENTIALITY

18.1 Each Party undertakes that, except as provided by sub-Clause 18.2 or as authorised in writing by the other Party, it shall, at all times :

- a) keep confidential all Confidential Information;
- b) not disclose any Confidential Information to any other person;
- c) not use any Confidential Information for any purpose other than as contemplated by and subject to the provisions of this Contract;
- d) not make any copies of, record in any way or part with possession of any Confidential Information; and

- e) ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub- clauses 18.1 (a) to 18.1 (d) above.

18.2 Either Party may :

- a) disclose any Confidential Information to :
 - (i) any sub-contractor or supplier of that Party;
 - (ii) any governmental or other authority or regulatory body; or
 - (iii) any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by the Contract, or as required by law, and in each case subject to that Party first informing the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 18.2 (a) (ii) above or any employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause 18, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

- b) use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Contract, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

18.3 The provisions of this Clause 18 shall continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

19. COMMUNICATIONS

19.1 All notices under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

19.2 Notices shall be deemed to have been duly given :

- a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
- b) when sent, if transmitted by facsimile or email and a successful transmission report or return receipt is generated; or
- c) on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
- d) on the tenth business day following mailing, if mailed by airmail, postage prepaid.

19.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

19.4 All documentation provided to the Customer will be in the English language.

20. FORCE MAJEURE

19.1 Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

21. WAIVER

20.1 The Parties agree that no failure by either Party to enforce the performance of any provision in under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

22. SEVERANCE

21.1 The Parties agree that, in the event that one or more of the provisions of the Contract are found to be unlawful, invalid or otherwise unenforceable, those provisions shall be deemed severed from the remainder of the Contract. The remainder of the Contract provisions shall be valid and enforceable.

23. DIVISIBILITY

22.1 The Contract is divisible. Each invoice submitted shall be deemed to arise from a separate contract; all invoices shall be payable in full, without reference to and notwithstanding any dispute concerning any other invoice. Any dispute will remain with the contracted company only and does not concern any other associated ,related or subsidiary business.

24. THIRD PARTY RIGHTS

23.1 A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. LAW AND JURISDICTION

25.1 This Contract shall be governed by and construed in accordance with the laws of England.

25.2 Nothing in this Contract is intended to confer on any third party any benefit or right to enforce any of these terms pursuant to the Contracts (Rights of Third Parties) Act 1999 which benefit or right is excluded.

25.3 Any dispute, difference, proceedings or claim between the Parties arising out of or in connection with the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the non-exclusive jurisdiction of the English Courts.