

## **1. Interpretation**

- 1.1 'Buyer' means Infotec Ltd
- 1.2 'Supplier' means the person, firm or company to whom the Purchase Order is issued.
- 1.3 'Goods' includes all goods and services covered by the Purchase Order.
- 1.4 'Purchase Order' means Buyer's Purchase Order which specifies that these conditions apply to it.
- 1.5 'The Contract' means the contract between Buyer and Supplier consisting of the Purchase Order, these Terms and Conditions of Purchase, any other documents (or parts of them) specified in the Purchase Order and any other terms and conditions agreed in accordance with Clause 2 below.
- 1.6 'Contract Price' means the unit price of items supplied under the Contract.
- 1.7 'Intellectual Property Rights' means the following in any part of the world:
  - a) patents, trademarks, registered designs and all applications for registration of them;
  - b) copyrights or design rights;
  - c) any moral right;
  - d) any know how;
  - e) any trade or business name;
  - f) any right to bring an action for passing off;
  - g) or any right which is similar or analogous to any of these.
- 1.8 References to the neuter include the masculine and feminine and to the singular include the plural and vice versa.
- 1.9 The headings do not affect the interpretation of these Terms and Conditions.

## **2. Terms and Conditions**

- 2.1 All orders are made on these Terms & Conditions which override and exclude any other terms stipulated, incorporated or referred to by the Supplier, whether in any quotation, any acknowledgement of the Purchase Order or invoice, or in any negotiations or any course of dealing established between the Supplier and the Buyer.
- 2.2 All contracts hereafter made between the Supplier and the Buyer shall be deemed to be made subject to these terms.
- 2.3 No modification of these terms or any other Contract provision shall be effective unless made by an express written agreement between the parties. The signing by the Buyer of any of the Buyer's documentation shall not imply any modification of these terms.

## **3. Quality**

- 3.1 All Goods manufactured or supplied shall be of the best quality, material and workmanship, without fault and accord in all respects with the specifications and drawings referred to in the Purchase Order and the patterns or samples (if any) supplied by Buyer.
- 3.2 Services shall be performed with all reasonable skill and care.
- 3.3 The Buyer reserves the right to visit the Supplier's premises and carry out an appraisal or audit of Suppliers' quality systems to verify Supplier's ability to conform or actual conformance to its documented quality programme or the requirements of the latest International Standard relating to quality management issued by the International Organisation for Standardisation, whichever is applicable.
- 3.4 The Supplier may be required to submit a quality plan and/or initial sample inspection report for approval by Buyer manufacturing the Goods.
- 3.5 Where any government, EU or other regulatory authority prescribes safety or quality regulations with which any Goods supplied must comply, Supplier shall ensure compliance with such regulations.

### **4. Delivery Date**

- 4.1 The date of delivery of the Goods shall be that specified in the Purchase Order or any revisions or amendments later made by Buyer to the Purchase Order. The time for delivery is of the essence.
- 4.2 The Supplier shall provide such programmes of manufacture and delivery as Buyer may reasonably require. The Supplier shall give notice to Buyer as soon as practicable if such programmes are or are likely to be delayed.
- 4.3 Delivery shall only be deemed to have occurred when Goods have been delivered correctly documented and in good and correct packaging at the address stated in the Purchase Order.
- 4.4 Without prejudice to Clause 4.1 above, if such delivery is delayed through any cause beyond the reasonable control of Supplier and immediately such cause arises Supplier notifies Buyer in writing thereof giving full particulars Buyer may, at its sole discretion, grant a reasonable extension of time.
- 4.5 If delivery is not made on the due date or within an extension of time granted in accordance with Clause 4.2 above then Buyer may cancel the Contract in whole or part and refuse to accept any subsequent delivery of Goods without prejudice to any other right or remedy which Buyer may have.

### **5. Incorrect Delivery**

All Goods must be delivered at the delivery point specified in the Purchase Order. If Goods are incorrectly delivered, Supplier is responsible for any additional expense incurred in delivering them to their correct destination.

### **6. Passing of Property and Risk**

The property and risk in the Goods remain with Supplier until they are delivered in accordance with Clause 4 above.

### **7. Price and Terms of Payment**

- 7.1 The Contract Price is as stated in the Purchase Order or other written agreement by Buyer and is fixed.
- 7.2 Claims for price increases must be submitted to Buyer in writing giving reasonable notice and supported by adequate documentary evidence together with a detailed cost breakdown. No price increases shall apply without Buyer's written agreement or after delivery of the goods.
- 7.3 All prices include delivery to Buyer. Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.
- 7.4 Unless stated in the Purchase Order or otherwise agreed in writing Supplier may not submit its invoice for the Goods until delivery has been validly made.
- 7.5 Unless otherwise stated in the Purchase Order, payment is due within 60 days net monthly of receipt of a valid and undisputed invoice by Buyer. Time of payment is not of the essence.
- 7.6 The Supplier shall not withhold supplies for any reason without Buyer's written agreement.
- 7.7 If either party fails to make any payment under the Contract on or before the due date, the party entitled to payment may charge interest at the rate of 3 per cent per annum above the base rate from time to time of Lloyds TSB Bank plc on the outstanding amount from the due date until the date of payment (both before and after judgment). Such interest shall accrue from day to day and the parties agree that it is in substitution for any statutory interest and compensation arising out of late payment that may be applicable to this Contract.
- 7.8 Without prejudice to any other right or remedy, Buyer may set off any amount owing from Supplier to Buyer against any amount payable by Buyer to Supplier whether under this Contract or any other contract between them.

## **8. Acceptance**

- 8.1 If Goods delivered by Supplier do not conform in every respect with the Contract (whether because of a different quality or quantity measurement to that required by the Contract or because they are not of satisfactory quality or are unfit for the purpose for which they are required) Buyer shall have the right to reject such Goods within a reasonable time of their delivery and to purchase replacements elsewhere but without prejudice to any other right which Buyer may have against Supplier.
- 8.2 The making of payment shall not prejudice Buyer's right of rejection. However, rejected Goods must be credited immediately in full and repaired or replacement Goods may be invoiced upon redelivery. Before exercising the said right to purchase elsewhere, Buyer shall give Supplier reasonable opportunity to replace rejected Goods with Goods which conform to the Contract.
- 8.3 Supplier shall ensure that all advice or delivery notes clearly state the Buyer's: -
- a) Part number.
  - b) Order number.
  - c) Line number.
- 8.4 Buyer is not liable for any additional costs as a result of Supplier's failure to deliver to agreed due dates or failure to meet the specification in the Purchase Order.

## **9. Variations**

- 9.1 Supplier shall not alter any of the Goods, except as directed in writing by Buyer, but Buyer shall have the right, from time to time during the Contract, by notice in writing to direct Supplier to add or to omit, or otherwise vary the Goods and the Supplier shall carry out such variations and be bound by the same terms and conditions, so far as applicable, as though the said variations were stated in the Contract.
- 9.2 Where Vendor receives any such direction from Buyer which requires an amendment to the Contract Price, the Supplier shall promptly advise Buyer in writing to that effect giving the amount of any such amendment and applying the same level of pricing as that contained in Supplier's tender or quotation (as the case may be).
- 9.3 If, in the opinion of Supplier, any such direction is likely to prevent Supplier from fulfilling any of its obligations under the Contract, Supplier shall so notify Buyer and Buyer shall decide as soon as possible whether or not the same shall be carried out and shall confirm its instructions in writing and modify the said obligations to such an extent as may be justified. Until Buyer confirms its instructions they shall be deemed not to have been given.

## **10. Indemnity**

- 10.1 Supplier shall indemnify Buyer against any costs (including legal costs on a full indemnity basis), charges, damages, interest and claims in relation to:
- a) defective workmanship, quality or materials;
  - b) any actual or alleged infringement of Intellectual Property Rights by the use or supply of any Goods (except where the infringement is directly due to the Supplier having followed a design or instruction provided to the Supplier by Buyer or to the use of such article or material in a manner or for a purpose prohibited by the Supplier, or which is due to the use of such article or material in association or combination with any other article or material not supplied by the Supplier (unless the Supplier is aware of such use); or
  - c) any claim made against Buyer for any liability, loss damage, injury, cost or expense sustained by Buyer's employees, agents or customers or any third party to the extent that this was caused by or arises from the Goods.

### **11. Ownership of Intellectual Property Rights**

All Intellectual Property Rights created by the Supplier specifically for the purposes of the Contract shall belong to Buyer and Supplier assigns absolutely to Buyer all such Intellectual Property Rights and shall do all such things and execute all such documents as may be reasonably required by Buyer to ensure that the Intellectual Property Rights are effectively assigned to Buyer.

### **12. Progress and Inspection**

Buyer's representatives shall have the right to progress and inspect all Goods at Supplier's works and the works of permitted sub-contractors at all reasonable times and to reject Goods that do not comply with the terms of the Contract. However, any inspection, checking, approval or acceptance given on behalf of Buyer shall not relieve Supplier or its sub-contractors from any obligation under the Contract.

### **13. Buyer's Rights in Specifications, Plans, Drawings, Patterns etc. and Confidentiality**

Any specifications, plans, drawings, patterns or designs supplied by Buyer to Supplier in connection with the Contract shall remain the property of Buyer, and any information derived there from or otherwise communicated in connection with the Contract shall be regarded by Supplier as secret and confidential and shall not, without the consent in writing of Buyer, be published or disclosed to any third party, or made use of by Supplier except for the purpose of implementing the Contract.

### **14. Responsibility for Information**

Supplier shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by it, whether such information has been approved by Buyer or not, provided that such errors or omissions are not due to inaccurate information provided in writing by Buyer.

### **15. Assignment and Sub-Contracting**

Supplier shall not assign or sub-contract any of its rights or obligations under the Contract, nor shall it assign or charge the benefit of any debt owed by Buyer to Supplier without Buyer's written consent. Supplier shall be responsible for all work done and goods supplied by sub-contractors.

### **16. Copies of Sub-Contracts**

Upon request, copies of sub-contract purchase orders shall be made available to the Buyer.

### **17. Deterioration**

Supplier shall protect all Goods supplied against the Purchase Order that might deteriorate or be damaged during transportation or storage. Supplier shall notify Buyer of the most appropriate storage conditions for the Goods supplied.

**18. Free Issue Materials**

18.1 Where Buyer for the purposes of the Contract issues materials free of charge to Supplier such materials shall be and remain the property of Buyer. The materials shall be at Supplier's own risk.

18.2 Supplier shall keep them in safe custody and separately identified from its own or third party materials. Supplier shall maintain all such materials in good order and condition subject, in the case of tooling, patterns and the like, to fair wear and tear.

18.3 Supplier shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at Buyer's discretion.

18.4 Waste of such materials arising from bad workmanship or negligence of Supplier shall be made good at Supplier's expense, without prejudice to any other of the rights of the Buyer. Supplier shall deliver up such materials whether further processed or not, to the Buyer on demand.

**19. Warranty**

19.1 Supplier shall as soon as reasonably practicable and at Buyer's option, repair or replace all Goods which are or become defective during the period of 12 months from putting into service or 18 months from delivery whichever shall be the shorter including without limitation, defects which occur due to Supplier's incorrect instructions as to use, incorrect use of data, inadequate or faulty materials or workmanship, any other breach of Vendor's obligations, express or implied or any failure to conform with the Contract.

19.2 Repaired and replacement Goods shall themselves be subject to the foregoing warranty for a period of 12 months from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair or replacement. This warranty is given by the Supplier without prejudice to any right or remedy which shall have accrued or shall thereafter accrue to Buyer.

**20. Termination**

20.1 Buyer may at any time by notice in writing immediately terminate the Contract in whole or in part without compensation to the Supplier if any of the following events occur: -

- a) Supplier commits a breach of any of the terms of the Contract;
- b) if Supplier being an individual or, where Supplier is a firm, any partner of that firm shall become bankrupt or shall have a receiving order or administration order made against him or shall make any arrangement with or for the benefit of his creditors or shall purport to do so;
- c) if Supplier being a company shall pass a resolution for winding-up, or a petition shall be presented to the court either for the appointment of an administrator or for the winding-up of the Supplier, or if a receiver or manager or administrative receiver shall be appointed, or if circumstances shall arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding-up order or appoint an administrator;
- d) Supplier ceases or threatens to cease to carry on its business; or
- e) control of more than 50% of the voting rights in Supplier is transferred.

20.2 Any termination of the Contract by Buyer under this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Buyer. Any provisions which are expressly or impliedly intended to be enforceable after termination (including without limitation Clauses 10, 11, 13, 15 and 19) shall continue to be enforceable.

**21. General**

- 21.1 No conditions submitted or referred to by Supplier when tendering shall form part of the Contract unless otherwise agreed to in writing by Buyer.
- 21.2 If any term or provision in the Contract is held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of the Contract but the enforceability of the remainder of the Contract shall not be affected.
- 21.3 Buyer's failure to insist upon strict performance of any provision of the Contract shall not be deemed to be a waiver thereof or of any right or remedy for breach of a like or different nature.
- 21.4 Any waiver by Buyer of a breach or default by Supplier will not be deemed a waiver of any subsequent breach or default.

**22. Law and Jurisdiction**

This Contract shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.