

**1 Definitions**

In these conditions and related documentation stemming from the Order the following definitions shall apply:

“Company” means the BOC company as stated on the Order.

“Contract” means the contract between the Company and the Supplier consisting of the Order and any other documents (or parts thereof) specified in the Order and subject to these terms and conditions.

“Contract Price” means the price to be paid by the Company to the Supplier for the Goods or Services.

“Goods” means all goods to be supplied to the Company under the Order together with all items that are to be delivered to the Company as a result of the performance of the Services.

“Order” means the order for goods or services overleaf to which these terms and conditions apply.

“Services” means the services to be performed by the Supplier under the Order.

“Site” means the Company’s place of business or other premises specified in the Order where the Goods are to be delivered or the Services are to be performed.

“Supplier” means the person, firm or company with whom the Order is placed.

**2 Acceptance of Order**

2.1 Acknowledgement in writing by the Supplier of acceptance of the Order, or the furnishing of Goods, or the performance of the Services, in whole or in part shall constitute acceptance by the Supplier of the Order subject to these terms and conditions.

2.2 Subject to any variations under Clause 11, these conditions herein shall apply to the Contract to the entire exclusion of all other terms and conditions.

2.3 No 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 shall form part of the Contract and the Supplier waives any right in which it otherwise might have to rely on such terms and conditions.

**3 Inspection**

3.1 The Supplier shall not unreasonably refuse any request by the Company to monitor the Services or inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Supplier shall provide the Company with all cooperation reasonably required for such activities. Notwithstanding any inspection or testing, the Supplier shall remain fully responsible for the Goods and Services and any such inspection or testing shall not diminish or otherwise affect the Supplier’s obligations under the Contract.

3.2 If as a result of such monitoring, inspection or testing the Company is not satisfied that the Goods or Services will comply in all respects with the Contract, the Company shall inform the Supplier and the Supplier shall take such steps as are necessary to ensure compliance.

**4 Delivery and Title**

4.1 The Goods and Services supplied against this Order shall be delivered to the Site. All Goods shall be adequately protected by the Supplier against damage and deterioration in transit and shall be delivered carriage paid. The Goods shall be at the Supplier’s risk until delivered in accordance with the Order.

4.2 All packaging shall be free and non-returnable, unless stated otherwise in the Order.

4.3 The Supplier shall ensure that each delivery of Goods is accompanied by all appropriate instructions and documentation in relation to the use, storage, operation, transportation and disposal of such Goods together with a delivery note which shows, among other things, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

4.4 The Supplier shall deliver the Goods or perform the Services at the time specified in the Order and such time shall be of the essence of the Contract. If any part of the Goods is not delivered, or Services not performed, within the time specified in the Order or any extension of such time agreed

by the Company, the Company shall be entitled to:

(a) determine the Contract in respect of such Goods not delivered or Services not performed;

(b) determine the Contract in respect of any Goods already delivered or Services performed which cannot be effectively and commercially used by reason of the non-delivery of such Goods or non-performance of such Services;

(c) return to the Supplier at the Supplier’s risk and expense any Goods as aforesaid and to recover from the Supplier any moneys paid in respect of the Goods or Services;

(d) recover from the Supplier any additional expenditure incurred by the Company in obtaining other goods or services to replace those in respect of which the Contract was determined.

4.5 Without prejudice to any right of rejection, property in the Goods shall pass to the Company on the earlier of delivery of such Goods or payment for such Goods.

4.6 The Company shall not be deemed to have accepted any Goods or Services until it has had a reasonable time to inspect such Goods or Services following delivery or performance, or if later, within a reasonable time after any latent defect in the Goods or Services has become apparent.

4.7 The Supplier shall at all times abide by any applicable health and safety rules or regulations and security requirements on the Site. Prior to working on any Site the Supplier shall attend a site induction to familiarise itself with such rules, regulations and requirements. The cost of attending such inductions shall be deemed to have been included in the Contract Price.

4.8 If, for any reason, the Company is unable to accept delivery of the Goods at the time specified in the Order, the Supplier shall, by prior agreement with the Company, store the Goods and shall maintain them in merchantable condition. Subject to prior written agreement, the Company shall reimburse the Supplier for the reasonable costs of such storage actually incurred.

4.9 If the Supplier is located outside the United Kingdom it shall comply with all applicable regulations governing the export of the Goods and their import into the UK.

**5 Prices and Payment**

5.1 The Contract Price shall be as stated in the Order and, unless otherwise indicated, shall be (a) exclusive of any applicable value added tax (which shall be payable by the Company subject to receipt of a VAT invoice); and (b) inclusive of all charges for packaging, packing, shipping, carriage, insurance, documentation, certificates of conformity and delivery of the Goods to the Company and any duties, levies or other charges other than value added tax.

5.2 Save as provided in Clause 11, no alteration may be made to the prices quoted on the Order without the Company’s written consent.

5.3 Unless otherwise stated in the Contract, the Company shall endeavour to make payment to the Supplier by the end of the month following the month in which the undisputed invoice in respect of the Order is received and agreed by the Company.

5.4 Payment of any invoice shall not constitute acceptance of the relevant Goods or Services.

**6 Warranties**

6.1 The Supplier warrants that the Goods (a) will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Company or made known to Supplier in writing at the time the Order is placed; (b) will be free from defects; (c) will correspond with the Order and any relevant samples, patterns or specifications; and (d) will comply with all statutory requirements and regulations.

6.2 The Supplier warrants to the Company that the Services will be performed in accordance with all applicable legislation, 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.

6.3 The Supplier agrees to pass on the benefit of any warranty or guarantee relating to the Goods or part of the Goods, to any subsequent user or purchaser of the Goods and the

Supplier agrees to enter into such documents as may be necessary to achieve this.

**7 Indemnities**

The Supplier shall indemnify the Company in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Company as a result of or in connection with (a) breach of any warranty given by Supplier in relation to the Goods or Services; (b) any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by the Company; (c) any liability under the Consumer Protection Act 1987 in respect of the Goods; (d) any act or omission of Supplier or its employees, agents or sub-contractors in connection with the performance of the Services or delivery of the Goods.

**8 Termination**

8.1 If the Supplier commits a material breach of the Contract and fails within ten days of notice by the Company to take such steps, as reasonably satisfy the Company, to rectify such breach, the Company may, without prejudice to any other right or remedy, terminate the Contract forthwith by notice in writing to the Supplier.

8.2 If the Supplier becomes bankrupt or has a receiving order or administration order made against him or makes an arrangement with or for the benefit of his creditors, or if the Supplier, being a Company, has a Receiver appointed or if an order is made or resolution passed for winding up the Supplier's business (other than for the purpose of amalgamation or reconstruction) or the Supplier shall suffer a like consequence of debt, then the Company shall have the right to cancel the Order immediately by notice in writing without compensation to the Supplier and any goods, tooling, and materials loaned or supplied to the Supplier in connection with the Order or the business in general, whether worked or not, shall be returned to the Company immediately.

8.3 The Company shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and the Company shall pay to the Supplier a fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

8.4 Termination of the Contract shall be without prejudice to the rights and duties of the Company accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

**9 Remedies**

Without prejudice to any other right or remedy which the Company may have, if any Goods or Services are not supplied in accordance with any of the terms of the Contract, whether or not they have been accepted by the Company, the Company shall be entitled, at its sole choice, to:

- (a) rescind the Contract;
- (b) reject the Goods and return them to the Supplier at the Supplier's risk and expense, on the basis that a full refund for the relevant Goods and Services shall be paid forthwith by the Supplier;
- (b) refuse to accept any subsequent performance of the Services or delivery of Goods which the Supplier attempts to make without further liability to the Supplier;
- (c) require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days;
- (d) require the repayment of any additional expenditure incurred by the Company in obtaining replacement goods or services.
- (e) require the repayment of any cost or expense directly incurred by the Company.

**10 Insurance**

The Supplier shall at all times maintain public liability and other relevant insurance with a reputable insurer at a prudent level or as is specified in the Order. Evidence of these insurances shall be produced by the Supplier to the Company on request. This clause shall remain in force for six

years following termination of the Contract.

**11 Variation**

These conditions shall apply to all the Company's purchases from the Supplier and no variation to the Order or these conditions shall be binding unless agreed in writing by the Company.

**12 Assignment and sub-letting**

12.1 The Supplier shall not assign or sub-contract any portion of the Order without the prior written agreement of the Company. The Supplier shall provide the Company with copies of all sub-contracts forthwith on their execution.

12.2 No sub-contract shall relieve the Supplier from the obligation to provide the Goods or perform the Services or from any liability under the Contract and the Supplier shall ensure that all other rights and remedies available to the Company as against the Supplier shall apply as against any sub-contractor.

**13 Company Materials**

Where the Company, for the purposes of the Contract, issues materials to the Supplier such materials shall be and remain the property of the Company and shall be returnable on demand or on termination of the Contract. The Supplier shall be responsible for such materials and shall maintain same in good order and condition and shall make good any loss of or damage to such materials however occasioned. The Supplier shall use such materials solely in connection with the Contract.

**14 Intellectual Property Rights**

14.1 All intellectual property rights (including in particular and without prejudice to the generality of the foregoing any patents, registered designs, copyright and any and all related or similar rights) arising out of or in the course of the performance of the Services shall vest in and be the exclusive property of the Company.

14.2 The Supplier hereby waives all moral and other similar rights it may have in the Goods or Services to be supplied under the Order.

**15 Confidentiality**

15.1 The Supplier shall keep secret and shall not divulge to any third party (except to sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-contract) all information given to the Supplier by the Company in connection with the Contract.

15.2 The Supplier shall not disclose the Company's name in connection with the Contract or disclose the existence of the Contract in any publicity material or other similar communication to third parties without the Company's prior consent in writing.

15.3 This obligation shall remain in force for 5 years after any termination of this Contract.

**16 Applicable Law**

The Order shall be governed, construed and take effect in accordance with English Law and shall be subject to the jurisdiction of the English Courts.

**17 General**

17.1 Failure of the Company to enforce any or all of its rights shall not constitute a waiver of such rights or any other rights.

17.2 If any provision of the Contract is prohibited by law or found by a court, tribunal or administrative body of competent jurisdiction to be wholly or partly void or unenforceable it shall, to such extent be deemed severable and the remaining provisions of the Contract shall continue in full force and effect.

17.3 The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.