

## **UK-NSI LIMITED**

### **CONDITION OF PURCHASE**

#### **1.0 THE CONTRACT**

1.1 In these Conditions the expression “Purchase Order” shall mean any written form of order sent by us to you whether in standard form or otherwise and whether or not headed “Purchase Order” and shall include our delivery instructions whether issued before or at the time of after the formation of a contract.

1.2 A contract shall be formed between us by the acceptance (whether express or implied) of our Purchase Order. This contract shall be governed by these terms and conditions and shall have incorporated into it the following additional documents (if any):-

1.2.1 Our Official Enquiry in respect of any part numbers appearing on the Purchase Order.

1.2.2 Our Quotation Analysis Form completed by you in respect of any part numbers appearing on the Purchase Order.

1.2.3 Any specifications or drawings delivered by us to you in respect of the goods or any specifications or drawings prepared by us and agreed in writing by us.

In the event of any conflict between these terms and any terms appearing on a Purchase Order of an Official Enquiry Form or a Quotation Analysis form, these terms shall prevail.

1.3 Any written acceptance of the Purchase Order or delivery of goods thereunder shall be unconditional acceptance of the Purchase Order and these terms and conditions irrespective of whether such acceptance purports to impose new conditions.

- 1.4 All printed or other conditions expressed by you are excluded and this contract shall be governed by these conditions. All other conditions and/or warranties whether implied by statute, common law or trade usage, or pressed by you, and any representations made by us, are hereby excluded, with the exception of conditions expressly accepted by us in writing and conditions and other terms the exclusion of which is prohibited by law.
- 1.5 No variation of the Purchase Order or this contract shall be binding upon us unless agreed by us in writing by a duly authorised representative.
- 1.6 You will at our request or upon the commencement of this contract complete our Vendor Commercial Appraisal document and notify us in writing of the full names and addresses of your proprietor or proprietors including all partners of your business or if you are a limited company the full name of the company and your registered office and the trading name or names used by you. In the event of any change of such information you will immediately inform us in writing of any such change.
- 1.7 Acceptance of the Purchase Order shall oblige you to design, manufacture, complete, deliver, install, commission and maintain the goods mentioned therein within the price.
- 1.8 Unless you have our written consent you shall not exceed any quantity specified in the Purchase Order or supply any goods which are of a different design or which incorporate, or are made by a different process from the design or process contained in the documents incorporated in this contract.
- 1.9 Where this order is shown by endorsements to apply to a government contract, it is subject to the same conditions as the government contract.
- 1.10 Jigs, tools, dies, patterns, designs, components and materials supplied by us for use in connection with the contract:-
  - 1.10.1 Shall be at your risk from the time they leave our factory until they are returned.
  - 1.10.2 Shall not be used by you except in connection with our order.

- 1.10.3 Shall be preserved under such conditions of secrecy as we may prescribe.
- 1.10.4 Shall be returned to us on determination of this contract (howsoever it occurs) or on demand and remain our property.
- 1.11 Any intellectual rights, including copyright, patentable goods or registerable designs, arising from the production, modification or combination of goods at our request under this order shall vest in us absolutely and you shall execute any agreements necessary to confirm our ownership of such rights.

## **2.0 PACKAGING AND CARRIAGE AND DELIVERY**

- 2.1 Transit and off-loading shall be at your risk and cost and no charges for packing, carriage or insurance will be allowed unless agreed by us in writing.
- 2.3 All goods must be delivered to us in the quantities and at the time specified by us from time to time on our delivery instructions which we shall send to you from time to time.
- 2.4 You will be fully responsible for ensuring that materials are ordered in time to meet the scheduled delivery times in our delivery instructions and if you fail to deliver all or any goods within the time specified in any delivery instructions then (without prejudice to our other rights) we may reject or refuse delivery of all or any such goods without liability to pay for any goods not accepted by us.
- 2.5 Time of delivery is of the essence.
- 2.6 You may be required to deliver at any time of the day or night.
- 2.7 All goods must be accompanied by a detailed delivery note giving full particulars of the goods supplied including our part number, date of manufacture, drawing issue level, batch number, quantity delivered, description of goods and our order number.

- 2.8 All labels on cases of packages must have our order number and part number and quantity clearly shown.
- 2.9 The property (ownership) and risk in goods ordered will pass to us at the time and place of delivery.
- 2.10 Where any advance payment or progress payment is made by us the property, but not the risk, in any materials purchased or allocated by you for the purpose of the contract shall immediately vest in us and upon termination of the contract (howsoever it occurs) we shall be entitled to enter upon your premises and collect such materials.

### **3.0 INSPECTION AND ACCEPTANCE**

- 3.1 Because of the nature and quality of the goods that we purchase we do not inspect goods on arrival at our factory.
- 3.2 No such failure to inspect the goods on delivery or any time thereafter (or actual inspection of any goods at any time) or failure to reject any goods shall constitute or imply acceptance of goods by us or relieve you of any obligations in respect of the goods.
- 3.3 We reserve the right to reject any goods in whole or in part at any time.

### **4.0 PAYMENT**

- 4.1 We will pay invoices for goods delivered sixty days from the last day of the month in which we receive the invoice.
- 4.2 The invoice must give full particulars of the goods supplied including date of delivery, our part number, batch number, quantity delivered, description of goods and our order number. If any of this information is not supplied we might not be able to process and pay the invoice.
- 4.3 We reserve the right to set off against any of your invoices any sums due or claimed by us from you.
- 4.4 In the event of late payment for whatever reason we shall not be liable to pay interest to you.

## **5.0 WARRANTY**

- 5.1 The goods shall conform in every respect to any Specification incorporated into this contract and be fit for their purpose and be of merchantable and satisfactory quality and free from defects in material or workmanship. Any performance characteristics specified in the Official Enquiry Form or Quotation Analysis Form or in any other tender and/or literature prepared by you are to be of the essence of this contract shall form part of it.
- 5.2 You shall remedy at your own cost including carriage charges any defects in goods which become apparent during the period from the date of the Purchase Order until the end of the period equivalent to any warranty period in which we have warranty obligations to our end user customers. We will provide you with details of such warranty periods upon request but the industry's standard is presently a period of five years or 60,000 miles.
- 5.3 In the event of any defect in the goods you shall compensate us for all loss and damage suffered by us including goods inwards costs and production line costs (including without limitation any costs for loss of manufacturing time) and you shall indemnify us for any costs and damages which we have to pay our customer or any third party including customer lineside costs and warranty costs and other costs incurred in respect of the same.
- 5.4 In the event that any claim is brought against us in respect of goods supplied by you to us then you will arrange for your staff to inspect the goods (either at our premises or elsewhere) and report to us on the parts and provide us with information either to reject any claim or remedy the problem. We may at our option require you to sort and rework or repair all goods that are defective whether still in our possession or elsewhere.
- 5.5 You will at all times insure and keep yourself adequately insured at a reputable insurance company against all insurable liability against your liabilities under this clause.
- 5.6 You shall provide all facilities assistance and advice required by us or our insurers (including access to all relevant files records and test data) for the purpose of contesting or dealing with any action claim or matter arising out of your performance under this contract.

## **6.0 INSTALLATION**

- 6.1 Where in pursuance of the contract you perform works upon our premises, the following conditions shall apply.
- 6.2 You shall be solely liable for, and shall indemnify us in respect of any damage or injury to any person or property however arising from:
- 6.2.1 Acts or omissions of yourself, your servants, agents or sub-contractors;
  - 6.2.2 Defects in the works due to faulty materials or to the faulty workmanship of any person.
  - 6.2.3 The conditions of premises, vehicles, plant tools and materials (whether or not owned, possessed or controlled by us) used by you, your servants, agents or sub-contractors,
- 6.3 You shall comply with, and you shall ensure that all your servants, agents and sub-contractors comply with all statutes, order, regulations and bye-laws and all of our company and site regulations and rules in any way relating to:
- 6.2.1 Acts or omissions of yourself, your servants, agents or sub-contractors;
  - 6.2.2 Defects in the works due to faulty materials or to the faulty workmanship or any person.
  - 6.2.3 The conditions of premises, vehicles, plant tools and materials (whether or not owned, possessed or controlled by us) used by you, your servants, agents or sub-contractors.
- 6.3 You shall comply with, and you shall ensure that all your servants, agents and sub-contractors comply with all statutes, orders, regulations and bye-laws and all of our company and site regulations and rules in any way relating to:
- 6.3.1 The carrying out of the works;
  - 6.3.2 The standard of the works;
  - 6.3.4 The observance of standards of health, safety and hygiene and you shall indemnify us against any fines, penalties, costs, damages or other liabilities whatsoever which may be incurred by us as a result of your failure, or the failure of any of your servants, agents or sub-contractors, to comply therewith or as a result of any other act or neglect by you, your servants, agents or sub-contractors.

- 6.4 Without prejudice to our rights to indemnity under Clause 6.3 of this condition, we reserve the right to remove or cause to be removed from the premises any person, object or substance who or which in our opinion constitutes a threat to the health and/or safety of persons on or adjacent to the premises.
- 6.5 Before commencing work on the premises, you shall sign a certificate provided by us certifying that you have been made aware of all of our company and site regulations and rules and that you will abide by them and will ensure that your servants, agents and sub-contractors abide by them. Such regulations and rules will be made available to you on request
- 6.6 You shall insure against such risks and in such terms as we may reasonably direct.

## **7.0 TERMINATION**

- 7.1 We may determine or rescind (as appropriate) this contract in whole or in part
  - 7.1.1 If you fail to deliver goods in whole or in part pursuant to our delivery instructions or delivery is otherwise delayed
  - 7.1.2 If goods supplied by you are not to our satisfaction
  - 7.1.3 If acceptance of the goods by us is prevented by war, fire, Act of God, stoppage of our workmen, prohibition or restriction by a competent authority, or any other case beyond our reasonable control.
  - 7.1.4 You enter or threaten to enter into liquidation or bankruptcy (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or have or threaten to have a receiver manager administrative receiver or administrator nominee or supervisor appointed over your undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for your winding-up or any proceedings have been commenced relating to your insolvency or possible insolvency.
  - 7.1.5 You come under the ownership or control of a direct competitor of ours.
  - 7.1.6 You breach a term of this contract.
- 7.2 Without prejudice to our rights to rescind the contract under this condition and such rights as we may have at general law to determine the contract; we may by written notice given to you at any time summarily determine the contract.

- 7.3 On determination under Clause 7.2 above the following provisions shall apply:
- 7.3.1 You shall use your best endeavours to mitigate the loss suffered by you as a result of determination under this condition and, without prejudice to the generality of the foregoing duty, you shall comply with our reasonable directions as to disposal of finished and semi-finished goods, components and raw materials therefore, and as to the determination of your liability under relevant sub-contracts.
- 7.3.2 We shall pay to you whichever is the lesser of:-
- 7.3.2.1 Such sum, if any, as would have been payable by us by way of damages if determination under this condition were a breach which discharged the contract.
- 7.3.2.2 Such sum, if any, as equals the contract price for finished goods which would, but for such run-out/design change, have been deliverable against the first two weeks of the delivery schedule in force at the date of determination plus such sum, if any, as equals the agreed cost for semi-finished goods, components and raw materials which would, but for such run-out/design change have been deliverable against the next two weeks of the delivery schedule.

## **8.0 PRODUCT LIABILITY**

- 8.1 You shall indemnify and hold us harmless against any claims, including our costs on a full indemnity basis, arising from any defects in the goods you supply, whether or not the defects arise from your negligence.
- 8.2 You shall insure yourself against potential liability for defective products under all relevant product liability legislation.

## **9.0 CHANGES**

- 9.1 We may at any time make changes in writing relating to this contract including changes in the drawings or specification or the goods. If any such changes requested by us result in an increase of cost then we shall consider an equitable adjustment to the price that you shall be obliged to provide the goods in any event according to our delivery instruction.
- 9.2 Production run out or design changes may create surplus finished and semi- finished goods, components and raw materials. You shall use your best endeavours to mitigate the loss suffered by you as a result of run-outs or design changes and in such event our liability to you will be limited to:-
- 9.2.1 such sum, if any, as equals the contract price for finished goods which would, but for such run-out/design change, have been deliverable against the first two weeks of the delivery schedule in force when the run-out/design charge is advised to you plus such sum, if any, as equals the agreed cost for semi-finished goods, components and raw materials which would, but for such run-out/design change have been deliverable against the next two weeks of the delivery schedule.
- 9.3 You shall inform us at once if any modification affecting the performance, appearance, function, durability or other essential specified characteristics of the goods or any associated tooling is found necessary during manufacture or commissioning and such modification must be immediately described in revised drawings to be submitted to us. We shall not be obliged to accept any modification unless we have agreed to do so in writing.
- 9.4 It is our policy not to accept price increases but to expect annual reductions in prices and we expect you to provide costs and price reductions for improvements in value analysis and value engineering. You will make available to us in confidence all records and information required by us to establish your costs and overheads in relation to the production of goods.

## **10.0 CONFIDENTIALITY, INTELLECTUAL RIGHTS AND EXCLUSIVITY**

- 10.1 All negatives and other goods supplied by us to you for the purposes of manufacture processing repair or storage shall not be removed from your premises without our written instructions except for the purpose of fulfilling this contract.
- 10.2 No drawings, data, information or intellectual property supplied to you or for you or used in the manufacture of goods for us shall be used in the production, manufacture or design of any other goods without our prior written consent.
- 10.3 The property in our materials of any nature supplied by us to you shall remain in us and we may retake possession thereof at any time without prior notice and we are granted by you irrevocable authority to enter upon any premises where their our materials are located to take possession of them.
- 10.4 You will not either during the period of any contract with us or at any time thereafter:-
- 10.4.1 Manufacture or procure to be manufactured for any person or company other than us any goods to designs or specifications originated or owned by us.
- 10.4.2 Disclose to any person or company any manufacturing process, design, negative, engineering drawing or data, information or any other trade secret of whatsoever nature belonging to us or the goods or services being supplied to us provided always that this restriction shall not apply to any information:-
- (a) Which at the time is disclosure is in the public domain or which becomes public after disclosure otherwise than through your actions.
- (b) Which you can show by satisfactory proof to have been in its possession prior to disclosure hereunder.
- 10.5 All contracts must be performed by you personally and no part of it may be assigned sub-let or sub-contracted by you without our written permission.

- 10.6 You warrant that the sale or use of any goods or part thereof including proprietary goods supplied to us by you will not infringe any Patent, Registered Design, Industrial Design, Design Right, Topography Right, Trade Mark, or Trade Name or other protected right in any country and undertake to indemnify us against all claims, judgements, decrees, orders, damages, costs and expenses arising from actual or alleged infringements of the same.
- 10.7 You shall not apply for any Letters Patent, Registered Design or similar rights of protection in relation to the goods or part of them unless specifically consented to by us in writing.
- 10.8 You shall not (without our prior written consent) use this contract or any part thereof or our name for advertising, publicity or business purposes and shall keep confidential all information received or acquired arising out of or in connection therewith.

#### **11.0 HEALTH AND SAFETY AND QUALITY ASSURANCE**

- 11.1 Any goods supplied to us shall be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health and all goods will be supplied with full instructions for their proper use maintenance and repair and with any necessary warning notices clearly displayed.
- 11.2 You agree before delivery to furnish us in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the articles supplied whether in use or otherwise and thereafter information concerning and changes in such properties or ingredients. We will rely on the supply of such information from you in order to satisfy our own obligations under the Health and Safety at Work Etc. Act 1974 and the Control of Substances Hazardous to Health Regulations 1988.
- 11.3 In respect of all goods supplied you will maintain or observe quality control and supplier quality assurance standards in accordance with the requirements of statute and regulatory bodies, our supplier quality assurance audit, Supplier Quality Pack Reference Number SGS01 and (as a minimum) BS 5750 Part 2/ISO 9000.

- 11.4 You shall at all time utilise the best available practical processes and materials available to minimise pollution and other environmental disturbances to manufacture the goods. You shall not use either in the goods or within any process connected with their manufacture any variety of lead, chlorofluorocarbons, cadmium, asbestos or any other deleterious substances which may from time to time be specified by us unless our written authority for their use is given by us.
- 11.5 You will maintain detailed quality control and manufacturing records for the period of at least twelve years from the date of supply of goods or services.
- 11.6 It is your responsibility to acquaint yourself with the purposes for which the goods or services supplied are to be used.

## **12.0 GENERAL**

- 12.1 No extension of time or other consideration granted by us shall in any way affect our rights or your obligations under this contract.
- 12.2 Neither we nor you shall be liable to the other for any failure to fulfil obligations under this contract if such failure is attributable to force majeure including strikes and lock-outs not within the reasonable control of the appropriate party. In order to mitigate the effect of such failure you will at all times take adequate precautions to minimise risk to business disruption with particular regard to your obligations to ensure continued supply to us.
- 12.3 The contract and matters pertaining thereto shall be deemed to have been made in England and shall be governed in all respects by English Law. The parties submit to the exclusive jurisdiction of The Courts of England.
- 12.4 Without our written consent you shall not sell or manufacture for any third party any tooling or parts of goods which are identical to or virtually identical to any goods or tooling or parts manufactured for us unless you have already marketed such goods or tooling or parts in exactly the same form as standard proprietary products through your own trading organisation before any Purchase Order is placed with you by ourselves at anytime during or after there is any contractual relationship between us.

## **13.0 TOOLING**

- 13.1 The following additional terms shall apply in the event that any Purchase Order includes an order for the manufacture of tooling and the term “goods” used in the foregoing clauses shall, where appropriate include tooling.
- 13.2 Our Purchase Order (or delivery instruction as appropriate) will include the following information:-
- 13.2.1 Whether the cost of the tooling will be amortised and if so the number of units over which it will be amortised.
  - 13.2.2 Whether the cost of the tooling will be a fixed price and if so the terms of payment.
  - 13.2.3 Details of the parts which the tooling will be used to manufacture.
  - 13.2.4 Our requirement for the production of prototypes and samples.
  - 13.2.5 A time scale for the production of the tooling (including if appropriate prototypes and samples)
  - 13.2.6 Capacity and expected life of the tooling.
- 13.3 You will during the manufacture of the tooling keep us fully informed of progress and exercise due and proper skill and care in the manufacture of the tooling and comply with all our reasonable requests and allow us and our customers access to any premises where tooling is located.
- 13.4 You will keep all materials of whatever nature relating to the tooling under your exclusive control and unencumbered possession free of all charges liens and other encumbrances.
- 13.5 You will not use the tooling for any purposes other than production of parts for us.
- 13.6 You will store the tooling free of charge and take all due care of the tooling and keep it safe and insure it.

- 13.7 You will be responsible for monitoring the wear and tear of the tooling and at your own costs be responsible for maintaining refurbishing and repairing the tooling including general servicing and maintenance of the tooling.
- 13.8 In the event that the tooling needs replacing or refurbishing or rebuilding as a result of fair wear and tear then the cost of such work will (subject to any agreement otherwise) not be your responsibility unless such replacing or refurbishment or rebuilding is needed within the life of the tooling as set out in our Purchase Order or Material Control Schedule.
- 13.9 In the event that the tooling needs replacing or refurbishing or rebuilding as a result of anything other than fair wear and tear then the cost of such work will be your responsibility.
- 13.10 In the event that we ask you to make any amendment to the tooling then such amendment will be carried out at our cost but in the event that any amendment to the tooling is necessary due to a defect in quality or in the process used in the manufacture of the parts then such amendment to the tooling will be carried out at your cost.
- 13.11 You will indemnify us against any loss or damage to the tooling and any consequential loss during the time that it is in your possession, care, custody or control.
- 13.12 You acknowledge that we are the owner or bailee of the tooling and we are entitled to possession of the tooling forthwith upon demand and that you shall not be entitled to exercise any lien or other rights including any rights of set off or counterclaim in respect of the tooling.
- 13.13 All liens and other rights of set off or counterclaim in respect of the tooling whether express, implied, statutory, customary or otherwise are hereby expressly excluded and you will deliver up possession of the tooling to us forthwith upon demand. Redelivery of the tooling to us will not affect any right of action accruing to us at that time.
- 13.14 You will ensure that all identification plates fixed to the tooling remain in place and shall fix such identification plates or make such markings on the tooling as we require.

13.15 You warrant that the tooling will be suitable for producing the number of parts as set out in our Purchase Order before it requires rebuilding or refurbishment.

13.16 You shall at our request at anytime destroy the tooling and provide us with such evidence of such destruction as we require.

SIGNED ON BEHALF OF

UK-NSI Company Limited

SIGNED ON BEHALF OF

SUPPLIER

