

TERMS AND CONDITIONS OF PURCHASE

This Order (as defined below) is the Company's offer to purchase the Goods (as defined below). Unless otherwise expressly agreed in writing these are the only conditions upon which the Company is prepared to procure the Goods as detailed in the Order.

In these Conditions:-

- "the Company" means Ontic Engineering & Manufacturing UK Ltd.
"the Contract" means the Contract for supply of the Goods to the Company
"Supplier" means the person, firm or company to whom the Order is addressed
"Goods" means all goods, services, data, software and other items (or any of them) furnished or to be furnished to the Company under this Order and any replacements and includes (without limitation) all necessary installation, handling, use, storage and disposal instructions in respect of Goods
"Specification" means all technical descriptions, designs, and drawings of Goods and details (if any) of their manufacture and performance specified by the Company in or pursuant to this Order
"Order" means this purchase order placed by the Company for the supply of Goods on these Conditions and includes all the provisions and Specifications specified in or attached hereto or issued pursuant hereto or incorporated by reference

1. EFFECT OF THESE CONDITIONS

- (a) Suppliers' commencement of performance or acceptance of this Order in any manner, or Suppliers' use of the number of this Order in any acknowledgement shall conclusively evidence agreement to this Order and its provisions.
- (b) All terms or conditions proffered by Supplier are hereby excluded. No variation to these Conditions shall be effective unless agreed in writing signed by an authorised person on behalf of the Company. Acceptance of Suppliers' conditions of sale or any other terms inconsistent herewith shall not be implied from any act, omission or series of acts or omissions on the part of the Company.
- (c) All variations to these Conditions agreed at the time of placing the Order are specified on the Order. In the event of inconsistency between these Conditions and the face of the Order form, the latter shall prevail.
- (d) Incoterms (2000 Edition) shall apply to contracts with non-UK-resident Suppliers.

2. SUB-CONTRACTING

- (a) Save as specified on the Order, Supplier shall not sub-contract nor assign the benefit of all or a material part of the Order without the prior consent of the Company. The Company reserves the right to assign the benefit of the Contract (subject to reasonable notice to Supplier) to any of its associated companies (as defined in Section 416(1) of the Income and Corporation Taxes Act 1998). Supplier shall be responsible for all work done and goods supplied by sub-contractors.
- (b) The Company reserves the right to require a performance guarantee from Supplier's ultimate holding company to be issued prior to commencement of work on the Contract or at any such time thereafter as the Company shall specify.

3. VARIATION OF ORDER

- (a) The Company may (at its sole option) at any time change the specification and quantity of Goods and the delivery date (subject to an equitable adjustment of price), such variation to be effective only if specified on an official Amendment Order issued by the Company and signed by an authorised person on behalf of the Company.
- (b) This Order constitutes the entire agreement of the parties and supersedes all other agreements and communications between the Company and Supplier concerning the subject matter of this Order.

4. CONFORMITY WITH ORDER, QUALITY AND DESCRIPTION

- (a) Goods shall in all respects:-
 - (i) conform as to quality, quantity, design and description with the particulars of the Order and with the Company's Supplier Quality Assurance requirements;
 - (ii) be of satisfactory quality and free from defect;
 - (iii) fit for all common purposes for which goods of the kind in question are commonly supplied and if expressly or by implication the purposes for which the company requires the Goods have been made known to the Supplier, fit for those purposes;
 - (iv) be equal to the approved samples, patterns or Specification;
 - (v) be adequately packed or wrapped at Supplier's expense to protect against all risks of damage or deterioration;
 - (vi) comply with requirements set out in the statutes or regulations applicable to goods of the type in question at the date of delivery;

- (vii) conform with all descriptions applied thereto by Supplier or otherwise appearing in supporting literature supplied in respect of the Goods;
- (b) Supplier shall not without the Company's prior written consent exceed quantities stated on the Order nor modify the Specification.
- (c) Supplier shall, prior to delivery, notify the Company giving details of Goods which are perishable or have a life expectancy of limited duration and of any circumstances likely to affect the quality of Goods and shall issue appropriate instructions as to storage, handling and use of the Goods.
- (d) Supplier shall ensure that items comprised in the Goods which are hazardous or may otherwise endanger life or health are clearly identifiable from external packaging. Supplier shall supply with the Goods warning labels and instructional material appropriate to warn persons coming into contact with the item of the hazards and its effects.
- (e) The Supplier shall indemnify and keep indemnified the Company against all loss (including, but without limitation, complete or partial loss of goods whether or not the subject of the Order, loss of profit and of any Contract) arising out of the Suppliers' errors or in omissions from or failure to issue appropriate instructions and warning notices or information under Conditions 4(c) and 4(d) above.

5. INSPECTION AND TESTING

- (a) The Company shall be entitled to inspect all work, facilities and records of Supplier connected with the supply of the Goods at any time during the period of the Contract. The Company's authorised representatives may, upon reasonable notice to Supplier, have access to monitor progress of work by Supplier or its approved sub-contractors on an Order. For such purpose Supplier shall and shall procure that its approved sub-contractors shall afford to the Company's representatives reasonable facilities and assistance.
- (b) Prior to delivery, Supplier shall test Goods for conformity with the Order. The Company relies on Supplier's skill and judgement in assessing quality and fitness for purpose. Supplier shall on request provide the Company free of charge with evidence and results of testing. The Company's authorised representatives may attend and observe testing of Goods.
- (c) The inspection or verification of work pursuant to the Order or attendance by the Company's representatives at testing of the Goods shall not constitute the Company's acceptance of Goods. No inspection, test or delay or failure to inspect or test or to discover any defect or non-compliance with the Order shall relieve Supplier of any of its obligations under this Order or impair any rights or remedies of the Company.
- (d) Supplier shall include the substance of this Condition 5 in all sub-contracts issued pursuant to the Order.

6. DELIVERY

- (a) Subject to Condition 6(e) time of delivery shall be of the essence of the Contract. Supplier shall notify the company forthwith of any likely delays.
- (b) Goods shall be delivered strictly in accordance with the Order. The Company reserves the right to specify delivery to the premises of a third party.
- (c) Supplier shall despatch with the Goods or under separate cover with its advice note all certificates of conformity and other documents required to be issued pursuant to the Contract. In the absence of advice note or in the case of default, or failure of documents to conform with the Order the Company shall be entitled to reject Goods.
- (d) Delivery note despatched with the Goods shall state: Order number, full details of consignment, date of despatch, name of carrier, list of other accompanying documents.
- (e) The Company shall be entitled in its absolute discretion to defer delivery without any liability for storage or other charges from Supplier and/or request the Supplier to stop all or any portion of the work under the Order. In such cases Goods shall not be invoiced until delivery has taken place.
- (f) The Company shall (without prejudice to its other rights and remedies under these Conditions or at law) be entitled to reject Goods found on delivery not to conform with the Specification, the Order or the requirements of these Conditions, including as to quantity or quality, or to be damaged or defective, however slight the non conformity, damage or defect (Sections 15A and 30 (2A) of the Sale of Goods Act 1979 shall not apply). Such Goods may be returned to the Supplier within a reasonable time after delivery at Supplier's risk and expense and shall be deemed not to have been delivered under this order. Supplier shall (at the Company's sole option) either supply replacements for rejected Goods or remedy defects or damage to the Company's reasonable satisfaction. The making of payment shall not prejudice the Company's rights under this Condition.
- (g) Any acceptance by the Company of Goods not in conformity with this Order shall be without prejudice to any rights the Company may have against Supplier.
- (h) Supplier's failure to adhere to any provision of the Contract shall entitle the Company at its sole option at any time after the date for performance or delivery to treat the Contract as repudiated in whole or in part (without prejudice to any other rights it may have), and the Company shall not be prejudiced by any delay in exercising such option or any indulgence granted to Supplier.
- (i) The Company shall be entitled to recover from Supplier all costs and expenses and loss whatsoever incurred (including without limitation costs of any necessary repair, replacement or other correction) as a result of or in

connection with non-conformity of the Goods with the Order, either by equitable price reduction, set-off or credit against any amount owed to Supplier (whether under this Order or otherwise) as the Company may in its absolute discretion elect.

- (j) If the Contract provides for delivery by instalments the Company shall be entitled to treat default in delivery of one instalment as breach of contract (without prejudice to any of its other rights and remedies). All instalment deliveries shall be invoiced separately unless otherwise specifically agreed in writing by the Company.
- (k) The Company reserves the right to refuse shipments made in advance of any agreed delivery date, and to return advance shipments at Supplier's expense.

7. RISK AND PASSING OF TITLE

- (a) Subject to Condition 7 (d) below and to the Company's right to reject or return Goods, title to and risk of loss or damage to the Goods shall pass to the Company immediately following off-loading of the Goods at the point of delivery specified in the Order.
- (b) Supplier shall be responsible for transport and unloading costs incidental to the contract and liable to insure Goods to their full replacement value against all risks of damage or loss prior to completion of deliver.
- (c) Supplier shall upon request provide such evidence of transit insurance cover in respect of the Goods as the company may reasonably require.
- (d) Where Goods are retained by Supplier pending delivery instructions, title shall pass to the Company when Goods are ready for despatch but risk shall remain with Supplier until delivery in accordance with the Company's instructions.

8. PRICE AND PAYMENT

- (a) The price stated on the Order shall remain fixed and binding until completion of delivery.
- (b) Prices stated on the Order are inclusive of all packaging, carriage insurance and freight charges and exclusive of VAT and Supplier shall not be entitled to increase the price by reason of any variation to such costs.
- (c) Supplier shall not issue any invoice prior to the scheduled or actual delivery date (whichever is the later). All invoices shall specify this Order number and full details of the consignment including description, quantity and unit price of Goods delivered.
- (d) Subject to the Company's receipt of Goods and documents conforming with the Order, payment will be in pounds sterling within 60 days from the end of the month in which the Company receives a proper invoice or within a period otherwise agreed. Notwithstanding the Company's acceptance of the Goods, delivery shall not be deemed to have taken place nor shall the period for payment commence until the Company's receipt of all documents required to be issued pursuant to the Contract.
- (e) Where the Company has agreed advance or progress payments Supplier shall upon request procure the issue by its bankers of a guarantee of immediate reimbursement upon demand.
- (f) Payment by the Company of any amount in or towards the Contract price shall not constitute the Company's admission as to Supplier's performance of its obligations or a waiver of the Company's rights.
- (g) Where extra charges for pallets, stillages, crates and other packaging have been agreed upon on Order subject to being credited upon return to Supplier, Company's delivery note signed by any servant or agent of Supplier shall be conclusive evidence that such packaging has been returned.

9. INTELLECTUAL PROPERTY

- (a) If Supplier makes any invention, discovery or design in the course of or otherwise resulting from this Order, ("a Discovery"), Supplier shall provide the Company with full details thereof. Unless otherwise expressly agreed in writing by the Company, absolute title in a Discovery shall be the Company's. Supplier shall provide to the Company such waivers and assignments as may be required to vest the Discovery in the Company and such copies of drawings, data, specifications and technical information as the Company may require in order to fully exploit the Discovery and to obtain protection by way of registration or otherwise of the rights of the Company in the Discovery.
- (b) Supplier shall not without the company's prior written consent supply Goods incorporating the Discovery to any third party.

10. INDEMNITY

Supplier shall at all times indemnify and keep indemnified the Company against:-

- (a) all costs, damages or other loss (including legal fees and expenses) incurred by reason of any claim for infringement of any letters patent, registered design, trade mark or name, or violation of any third party right resulting from the use or sale of Goods and (in the case of Specification supplied by Supplier) the performance by Supplier of its obligations under the Contract whether arising in contract, tort or otherwise provided that this indemnity shall not extend to liabilities arising out of parts or materials supplied according to the Company's Specification; and

- (b) all actions, suits, claims, costs, demands, damages, expenses or other loss or liability (including legal fees and expenses), loss of property, death or injury to any person howsoever arising to the extent occasioned or contributed to by any defect in or failure of the Goods to conform with the Contract or any act or omission of Supplier, its agents or sub-contractors; and
- (c) all indirect or consequential loss, costs, damages or expenses sustained by or claimed against the Company and arising in whole or in part out of Supplier's or its sub-contractors' or any agents' performance or non-performance of this Order or any other circumstances mentioned in this Condition.
- (d) The Supplier shall maintain aviation liability insurance, covering bodily injury and property damage, in respect of its indemnity obligations under this Condition 10 in an amount not less than US\$5,000,000 combined single limit. Evidence of such insurance shall be provided to the Company promptly upon request.

11. PROPRIETARY INFORMATION

- (a) Supplier shall keep in strict confidence all confidential information relating to the products, business, technology, procurement or technical requirements of the Company or any of its associated companies (as defined above) which may come into Supplier's possession in the course of carrying out the Order and Supplier shall not without the Company's prior written consent use nor disclose the same to any person for any purpose other than for execution of the Order.
- (b) Supplier shall not without the Company's written consent use the Company's name or otherwise hold itself out as associated with the Company in any advertising or publicity material or in any other manner.
- (c)
 - (i) All drawings, specifications, data and other items (including any technical information), written, oral or otherwise provided by the Company to Supplier shall be used solely for the purpose of the Order and remain the property of the Company, and Supplier shall return the same without charge to the Company forthwith upon demand.
 - (ii) Drawings, specifications, data or other items produced by Supplier upon the Company's instructions pursuant to the Order shall be used only for the purposes of the Order. Supplier shall upon request supply copies of the same free of charge to the Company.
- (d) Supplier shall forthwith upon request and in any event upon termination of the Contract return to the Company all Specifications, drawings, samples, free issue items (as defined in Condition 13) and other materials whatsoever supplied by the Company to Supplier pursuant to the Order and shall not keep any copies of the same.
- (e) Without prejudice to the generality of the foregoing provisions of this Condition 11, Supplier shall not use or assist others in using any information (including any drawings and other technical information) provided by the Company to the Supplier for the purposes of the Order, or developed or produced by the Supplier in the course of performing the Order, for the purposes of developing parts or components for anyone other than the Company, either as production, spare or repaired items, without the Company's prior written consent.
- (f) Supplier shall include the substance of this Condition in all sub-contracts issued pursuant to this Order.

12. SUPPLY OF PERSONNEL

- (a) All personnel provided by Supplier for carrying out the Order shall at all times be deemed to be in the employment of Supplier, and shall comply in all respects with site rules applicable to the Company's premises.
- (b) Supplier shall retain in force during the period of performance of the Order policies of third party liability insurance and employer's liability insurance and shall upon request produce to the Company evidence of the terms of such policies and of the payment up-to-date of all premiums thereunder.

13. MATERIALS AND TOOLING

- (a) At all times whilst Supplier has in its possession any free issue materials, tooling or other equipment loaned or supplied to it by the Company for performance of an Order or title which belongs to the Company under Condition 13(b) below, ("Issue Items") Issue Items shall remain the Company's property but shall be at Supplier's risk and Supplier shall:-
 - (i) use Issue Items economically and solely for performance of the Order and certify to the Company incorporation of Issue Items in Goods required by the Order;
 - (ii) whilst not in use keep Issue Items insured for full replacement and readily identifiable as the Company's property; and
 - (iii) at its own expense keep Issue Items insured for full replacement value against all usual risks and apply proceeds of such insurance for replacement of Issue Items;
 - (iv) store safely, treat with due care and keep in good condition (fair wear and tear excepted) all Issue Items;
 - (v) not charge by way of security for any indebtedness nor, without the Company's prior written consent, sell, dispose of or destroy Issue Items;
 - (vi) at own expense make good or replace all Issue Items damaged or lost due to its own negligence;
 - (vii) forthwith upon demand from the Company yield up all Issue Items supplied by the Company, to the Company or its authorised agents.

- (b) The contract price shall be inclusive of tooling costs incidental to the Order. Tooling costs in full shall be shown as a separate item on invoice. Passing of title to tooling shall be simultaneous with passing of title to Goods and Supplier shall upon request make tooling available for collection by the Company at any time thereafter.

14. CANCELLATION

- (a) The Company shall be entitled by notice at any time to terminate the Contract in whole or in part. Upon termination under this Condition 14(a), 15 or 18, Supplier shall immediately discontinue work on the order and shall within two months thereafter submit its claim for expenses incurred pursuant to the Order to the extent to which the same would otherwise be an unavoidable loss to Supplier due to the Company's cancellation. Supplier shall take all reasonable steps to mitigate its loss and the Company shall not be liable for claims submitted more than two months after termination.
- (b) Subject to payment of the fair and reasonable price thereof the Company shall be entitled forthwith upon termination pursuant to Condition 14(a), 15 or 18 to take possession of and Supplier shall yield up to the Company all unused and undamaged materials and parts and items in the course of manufacture pursuant to the order, and tooling and issue items wherever situate and Supplier hereby irrevocably authorises Company to enter onto its premises for such purpose.

15. INSOLVENCY

The Company may at any time by notice in writing summarily terminate this order or suspend delivery without compensation to Supplier forthwith upon the occurrence of any of the following events ("the Events"):-

- (i) if Supplier enters into any composition or arrangement for the benefit of its creditors; or
- (ii) if Supplier, being an individual, becomes bankrupt or has a receiving order or administration order made against him;
- (iii) Supplier becomes insolvent or appears to be unable to pay a debt or to have no reasonable prospect of paying a debt (within the meaning of Section 268 of the Insolvency Act 1986) or being a company, appears unable to pay its debts (within the meaning of Section 123 of that act); or
- (iv) the presentation of a petition for the appointment of an Administrative Receiver or Administrator or the giving of any notice of a resolution for the winding-up of Supplier (other than a members' voluntary winding-up of a solvent company for the purpose of a bona fide reconstruction); or
- (v) the appointment of an Administrative Receiver or administrator in respect of the whole or any part of Supplier's undertaking or assets;

such termination or suspension being without prejudice to the Company's other rights or remedies under the Contract, whether accrued before or accruing after such notice.

16. HEALTH AND SAFETY

The Supplier shall comply with all of its legal obligations in relation to health and safety in respect to the Goods and shall as a continuing obligation surviving termination or performance of the Contract provide the Company with such information and assistance concerning the Goods as the Company may reasonably require to enable the Company to comply with its legal obligations in relation to health and safety in respect of the Goods (including in each case any obligations under the General Product Safety Regulations 1994).

17. NO WAIVER

No waiver of any of the Company's rights under the Contract shall be effective unless in writing signed by an authorised person on behalf of the Company. A waiver shall apply only to the specific circumstances in which it is given and shall be without prejudice to the enforcement of the Company's rights in relation to different circumstances or the recurrence of similar circumstances.

18. FORCE MAJEURE

If the Company shall be prevented from taking delivery of Goods, issuing instructions or otherwise progressing this order by reason of any circumstances beyond its control including (but without limitation) Act of God, legislation, war, civil commotion, fire, flood, drought, failure of power supply, lock-out, strike, stoppage or other action by employees or third parties in contemplation of furtherance of any dispute the Company shall be entitled, during the period of such contingency, to defer or cancel delivery of any undelivered balance of Goods and in the event of cancellation, the provisions of Condition 14 shall apply.

19. COMPLIANCE WITH LAWS

The Supplier warrants to the Company that at all relevant times it has complied with and shall comply with all laws and regulations applicable to its performance under the Order and these Conditions. The Supplier shall indemnify and hold the Company harmless from any and all costs, damages and expenses suffered or occasioned to the Company through any failure of the Supplier to comply with any such applicable laws and regulations in its performance under the Order and these Conditions.

20. NOTICES

Notice under these Conditions shall be properly given if in writing and sent by first class post, telex or facsimile to the address of the intended recipient as stated in the Contract or to such address as the Company and Supplier from time to time notify to each other as their respective addresses for service and shall be deemed served in the case of postal notice, on the expiry of 48 hours from time of posting, in the case of telex on the recording of the "answer back" code on the senders machine, and in the case of facsimile, on completion of transmission by the sender.

21. CONSTRUCTION AND JURISDICTION

- (a) English law shall govern construction and operation of the Contract and Supplier agrees to submit to the non-exclusive jurisdiction of the English Courts.
- (b) Each of these Conditions and each paragraph hereof shall be construed as a separate condition. Should any provision hereof be found to be invalid, or unenforceable then such provision shall be severed from these Conditions.