



East Midlands Instrument Company Standard Conditions of Purchase.

1. DEFINITIONS

The following definitions shall apply to the following Terms and Conditions:

- (i) "the Company" shall mean East Midlands Instrument Company Ltd, a UK Registered company.
- (ii) 'the Supplier' shall mean the other party to the contract for the supply of goods or services to the Company as stated on the face of the Purchase Order.
- (iii) 'Goods' mean the goods and/or services supplied by the Supplier to the Company. This shall, unless stated to the contrary, include all packaging, containers or labels supplied with any such goods, in the case of contracts for work and materials the use of the word "Goods" shall include any services to be undertaken as part of the Contract and which may (without limitation) comprise, include or relate to software
- (iv) "the Contract" mean the Contract for the supply of Goods to the Company by the Supplier detailed in the purchase order and any documents referred to therein or attachments thereto, together with any subsequent modification thereto.

2. PRECEDENCE

This order is open for acceptance only upon these Terms and Conditions which shall take precedence over any terms and conditions of the supplier. Any order is conditional upon the Suppliers acceptance that this Contract will be governed solely by these terms. In particular it is agreed that any Purchase Order Acknowledgement or similar document from the Supplier in relation to the subject matter of this Purchase Order will not vary, add or detract to these Terms and Conditions. This purchase order and any documents referred to therein constitute the entire agreement between the Company and the Supplier.

3. VARIATION

3.1 The Company reserves the right to vary the purchase order or any part thereof provided that no such variation shall be in force until authorised by an official purchase order amendment

If any such variation causes an increase or decrease in the Suppliers costs, a reasonable adjustment to the purchase order shall be agreed to reflect such increase or decrease in costs. In the event of non-agreement the company shall be entitled to cancel the purchase order without liability.

4. FIXED PRICE

Unless otherwise expressly agreed in writing between the Company and the Supplier the purchase order price shall be fixed i.e. not subject to any escalation.

5. ASSIGNMENT

5.1 The Supplier may not without the prior written consent of the company sub-contract the execution of the Contract or any significant part thereof or assign any of its rights hereunder to any other person.



5.2 Where such written consent is given by the company it shall be a prerequisite of such consent that the Supplier shall obtain the agreement of its subcontractor/s to be bound in full by these terms and conditions and the requirements of the purchase order (in particular, but without limitation, quality assurance requirements, inspection, testing, certification, right of access, etc.).

The Company reserves the right to expedite such sub-contracted materials and/or services with the Supplier's sub-contractor either directly or in association with the Supplier's own expediting staff.

6. DESCRIPTION OF GOODS

The Goods shall comply with all specifications, drawings, designs or other information provided by the Company to the Supplier prior to the date of the Purchase Order.

In particular the Goods shall be safe and conform with all laws, regulations and modern practice in force at the time of supply and restriction of use of certain hazardous substances in electrical and electronic equipment regulations 2005 and packaging waste regulations 2005

7. FITNESS FOR PURPOSE

The Goods shall, in all cases, be new and free from defects of any kind (including design defects, where the Goods are not of the Company's design) and shall conform to any statements made on the containers or labels thereof. The Goods shall be fit for the purpose for which they are intended and which the Company has made known to the Supplier, either expressly or by implication. The Goods shall be as durable, and capable of functioning efficiently in such environments, as would reasonably be expected having regard to such purpose and/or any other purpose for which the Goods are commonly used.

8.0 QUALITY ASSURANCE INSPECTION AND TEST

8.1 The Goods may upon request be subject to inspection and testing, or witness of such tests, at the Supplier's or its sub-contractors works, by the Company or its customers. The Supplier will provide all manpower, equipment and facilities to enable such verifications to be made.

8.2 The Supplier shall at the Company's option and without prejudice to any other rights the Company may have by law, statute or elsewhere under these conditions, replace the rejected Goods with compliant items without delay, or return to the Company all monies paid in respect of the Goods, together with the value of all materials supplied by the Company for use therein.

9. PATENTS

The Supplier shall indemnify and keep indemnified the Company from and against all costs, claims proceedings or demands in respect of any infringement of letters of patent, registered design, trademark or copyright, arising cost of the sale or use of any goods supplied under this purchase order, provided always that the Supplier shall not be required to indemnify the buyer from the company against such infringements where the Goods are supplied to the particular design or specification of the Company. In particular the Goods supplied must at the date of supply be the absolute property of the Supplier and free from any lien, charge, encumbrance, retention of title claim or other third party interest.

10. COPYRIGHT

10.1 All documents, designs, drawings, photographs and specifications (including, where appropriate, specification of samples, models and tools) furnished by the Company to the Supplier, remain the sole and exclusive property of the Company and are to be treated as confidential by the Supplier and shall be used by the Supplier only for the purpose of performing contracts between the Supplier and the Company and shall be disclosed only to such employees of the Supplier as are engaged in the execution of the Contract. In the event that any confidential design or other technical information is supplied, the Company may require the Supplier and the Supplier's relevant employees and/or sub-contractors to enter into formal confidentiality agreements in such form as the Company may reasonably require.

Upon request by the Company, completion of the supply of Goods, or upon termination of the Contract for whatever reason, all such documents, designs, photographs, drawings, specifications, samples, models and tools shall be returned to the Company in good working order (without retention of copies or three dimensional reproduction thereof) together with any such other drawings, specifications and technical or commercial information acquired or used by the Supplier in connection with the manufacture of the Goods.

The Company reserves the right to use any such information as if such were the sole property of the Company.

11. PUBLICITY AND ADVERTISING

The Supplier may not without the Company's consent advertise, publish or disclose any fact or matter concerning the Contract or the performance thereof.

12. WORK ON THE COMPANY'S PREMISES AND SAFETY

12.1 If under the terms of the Contract the Supplier is required to perform services or carry out work on the Company's premises or on any premises other than those of the Supplier the Supplier shall:

- (i) take out and maintain a policy or policies of insurance with a reputable insurance company in respect of and indemnifying the Company against all and any liability whatsoever arising under law statute or otherwise, for all damage or injury to any property or person arising from, or caused in any way by, the execution by the Supplier of such work or the performance of such services.
- (ii) produce to the Company on demand the Said policy or policies of insurance.
- (iii) employ only such persons in the execution of such work or the performance of such services as are competent, shall have received proper instruction on the safety regulations contained in the Factories Act 1961, Health and Safety Work Act 1974, Local Railways Depot Regulations and Railway Safety Critical Work Standards or any re-enactment thereof and any order or regulation made thereunder, and
- (iv) acquaint itself and its employees and ensure that its employees comply with all regulations and rules in force on such premises.

12.2 The Goods shall be so designed and constructed as to be safe and without risks to health when properly used for the purpose for which they are intended. The Supplier shall carry out or arrange for such testing and examination of the Goods as is necessary to ensure the Goods will be safe and without risk to health. The Supplier shall comply with all legislation relating to safety and any regulations or codes of practice made thereunder, applicable to the Goods. Acceptance of the Goods by the Company shall not be deemed to be an admission by the Company that the Supplier has complied with the provisions of this Clause.

13. DELIVERY

13.1 The time stipulated in the order for delivery of the Goods shall be of the essence of the Contract and the Supplier will deliver the Goods in the manner and at the times so stipulated. Failure by the Supplier to deliver the Goods by the time stipulated in the order shall without prejudice to any other right of the Company, obligate the Supplier to make payment of or accept a discount from the Company of liquidated damages not exceeding 10% of the total cost of the Goods subject to the delay, of 1% for each week or part of a week during which the Goods remain undelivered.

13.2 The Goods shall be packed or crated and protected as necessary during transit in such a manner as to reach the Company in good condition but in any event the Goods shall be at the Supplier's risk until arrival at the point of delivery stipulated in the order, or such other place as the Company may stipulate. The Company will not pay for packing cases or pallets but will return them at the Supplier's expense, if previously agreed and if such cases are marked "returnable", and the address to which they are to be returned is clearly shown thereon.

13.3 Notwithstanding any other of these Conditions the Company may delay delivery of the Goods under the Contract on giving the Supplier reasonable notice in writing signed by an authorised representative of the Company. In this event the Company at its own option will either

- (i) pay the Supplier's reasonable storage costs and other properly incurred and reasonable foreseeable expense of the Supplier or
- (ii) pay interest on the cost to the Company of the Goods subject to the aforementioned delay, at the base rate from time to time in force at the National Westminster bank Plc.

If the Company is prevented from taking delivery of the Goods by reason of any strike, lock-out industrial dispute, fire, flood, Government Regulations or any other cause whatsoever beyond the Company's control, the Company shall have the right at its option to suspend delivery of the Goods without liability or if the Said situation becomes protracted to cancel the order in whole or in part.

14. INVOICING AND PROPERTY

14.1 Without prejudice to any other rights of the Company expressed in these Conditions or implied by law, statute or otherwise, property in the Goods shall pass to the Company on delivery, and the Company shall be entitled to exercise all rights of ownership in the Goods free of any interest of the Supplier with effect from such time.

14.2 The Goods or any part of the Goods when delivered shall be accompanied by a delivery note, such note must contain a description of the Goods and state the Company's purchase order number and the item and part number appearing on the Company's order.

14.3 All invoices for Goods supplied must be sent to the Company immediately after despatch of the Goods. All invoices must bear the Company's order number and contain full details of the price charged and of any cash discount allowed by the Supplier. Invoiced quantities shall be relative to purchase units. One delivery, one invoice.

14.4 Invoices will be passed for payment during the month following that in which the Goods are received by the Company and payment for the Goods shall be made by the Company on the tenth day of the month following that in which the invoice is passed for payment, or as agreed in any contract specific documentation.

15. INDEMNITY

15.1 The Supplier shall indemnify and keep indemnified the company and its employees against all direct, indirect or consequential loss, damage or injury to property or persons, suffered by the Company and its employees and from and against any claim in respect of such loss, damage or injury brought against the Company and its employees by third parties which result either directly or indirectly from the Suppliers performance of the Contract (whether negligent or otherwise), from defective design work, material, workmanship or non-compliance with depot regulations, or from the failure of the Supplier to comply with any of the terms of the Contract

15.2 The Supplier shall indemnify and keep indemnified the Company against all claims, proceedings, costs and expenses in connection with any liability of the Company arising from the supply or use of the Goods under the Consumer Protection Act 1987.

16. WARRANTY

16.1 The Supplier hereby warrants that the Goods when delivered shall be in all respects in accordance with the Contract and free from any defect whatsoever. Without prejudice to such other rights as the Company may have by law, statute or otherwise in respect of such defect, in the event of any defect due to faulty workmanship, or material, or (where the Goods have been designed by the Supplier) their design and notwithstanding the Company's rights of inspection, test and rejection, appearing, in the Goods within twelve months from the date on which the Goods are incorporated into a Company product or otherwise enter service, the Supplier shall forthwith on receipt of notice of such defect from the Company and at its own expense promptly replace and refit such. Replaced parts by the supplier shall be warranted for a further period of twelve months from the date of repair or replacement

17. TERMINATION

17.1 If any time during the performance of the purchase order the Supplier shall commit a serious breach of contract (including failure to make timely deliveries) or any distress, executions or other legal process is levied upon any of the Suppliers assets, or the Supplier shall enter into liquidation or call a meeting of its creditors or suffer the appointment of a receiver or administrator pursuant to the Insolvency Act 1986, then the Company may at any time and without prejudice to any other rights the Company may have by law, statute or under these Conditions, without incurring any liability whatsoever to the Supplier, terminate the Contract at any time thereafter summarily by written notice.

17.2.1 In any event and having given written notice to the Supplier the Company shall be entitled at any time to terminate the Purchase Order provided that:

- (i) The Company shall pay the Supplier for all Goods delivered, all work in progress and all raw materials purchased for the purpose of the Purchase Order, provided that any such work in progress and/or raw materials are in a useable condition and in accordance with the requirements of the Purchase Order.
- (ii) The Supplier shall, if so required by the Company, complete all partially manufactured work in progress and deliver such to the Company.

17.2.2 In the event of payments for work in progress or raw materials becoming due in accordance with Clause 17.2.1(i) above payment shall be limited to costs which have been suffered by the Supplier for materials, labour and overheads only and subsequent to payment being made properly in such work in progress and/or raw materials shall pass to the Company.



18. WAIVER

Failure by the Company at any time to enforce any of the provision of these Conditions shall not be construed as a waiver by the Company of such provisions or in any way affect the validity of these Conditions.

19. NOTIFICATIONS

Any notice to be served pursuant to these Conditions shall be sent by facsimile or by first class pre-paid post, addressed in the case of notices to be served on the Company, at the address shown on the Purchase Order documentation and in the case of the Supplier at the address shown on its relevant quotation. Notice by facsimile shall be deemed to have been given at the time of transmission. Notices delivered by post shall be deemed to have been received on the next working day after postage.

20. ENGLISH LAW

The Contract shall be construed and shall take effect in all respects in accordance with English Law and the Supplier and Company shall submit themselves to the exclusive jurisdiction of the English Courts.

21. RIGHTS OF THIRD PARTIES

Unless expressly provided by the purchase order, any person who is not a party to this agreement has no right to enforce any term of this agreement, Rights of Third Parties Act 1999.

22. CONFIDENTIALITY

The Supplier shall hold as confidential all Company Information, Specifications, manufacturing data, plans, designs, working drawings, patterns, sketches, proofs, samples, labels and other materials and components of a like nature and any other matter relating to the Goods and shall not disclose the same or any of the same to any other person except such of the Supplier's employees as may be necessary for the performance of the Supplier's obligations under the Purchase Order.

All Company information, specifications, manufacturing data, plans, designs, working drawings, patterns, sketches, proofs, samples, labels and other materials or components of a like nature and any other matter relating to the Goods shall on completion of the order or its termination for any reason to be returned to the company forthwith.