

# ULTRA.

Ultra Electronics Limited  
Precision Control Systems

Standard Terms and Conditions of Purchase

## GENERAL CONDITIONS

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## 1. Definitions

**“Applicable Legislation”** means all laws, statutes, acts, regulations, codes, judgments, orders, directives or determinations applicable to the manufacture, supply, packaging, storage, sale and use of the Items and the provision of the Services.

**“Items”** means items, parts, components, supplies or items including without limitation, those part numbers, model numbers, and/or descriptions set forth on the face of the Order and any Services supplied with them and shall also include computer software or hardware (including any software, firmware or other hardwired logic embedded within the hardware) to be delivered or supplied under this Order. It shall also include Services not supplied with Items as the context requires.

**“Order”** means any purchase order issued hereunder, including written change notices, supplements, amendments, or other written modifications thereto, together with any referenced documents, statement of work, exhibits, attachments or other documents and includes these terms and conditions.

**“Purchaser”** means Ultra Electronics Limited whose registered office is situated at 35 Portman Square, London, W1H 6LR, acting through its business division Precision Control Systems.

**“Purchaser’s Representative”** means the person employed by and nominated by the Purchaser who is authorised to act on behalf of and bind the Purchaser and is notified to the Supplier, such as a procurement representative.

**“Services”** means any services supplied by Supplier incidental to the sale of Items by Supplier under the Order including, without limitation, installation, repair, and maintenance services. The term ‘Services’ shall also include without limitation, any services specifically required by the Order, including all associated services such as design, engineering, repair, maintenance, technical, construction, consulting, professional, or other services.

**“Supplier”** means the legal entity performing work pursuant to the Order and, if the context require, its employees, officers, agents, subcontractors, and others acting at its direction and control or under contract to it.

**“Terms and Conditions”** means the terms and conditions contained herein.

## 2. Application

The following Terms and Conditions shall apply in respect of the Order. These Terms and Conditions shall prevail over any terms and conditions submitted by the Supplier, any acknowledgement from the Supplier of an Order, or in any other form of correspondence between the parties relating to the subject matter of these Terms and Conditions.

## 3. Acceptance of Order

Purchaser will be bound by an Order only if it is placed on Purchaser's official order form and that Order is accepted by Supplier within fourteen (14) days of the date of the Order. For the purposes of this clause 3, any of the following acts by Supplier shall constitute acceptance of the Order, regardless of whether Purchaser has received a signed Order acknowledgment from Supplier:

- (a) Execution of an acceptance copy of the Order and receipt thereof by Purchaser;
- (b) Initiation of any aspect of performance, or notification to Purchaser that Supplier is commencing performance under the Order;
- (c) Shipping or Delivery of any Item in performance of the Order; or
- (d) Acceptance of any form of payment, partial or complete under the Order

## 4. Precedence

In the event of any conflict between the following documents, the order of precedence between them shall be as follows:

- (a) The Order;
- (b) Any flow-down terms and conditions detailed in Annex A hereto;
- (c) these Terms and Conditions (which are incorporated by reference in any Order issued hereunder); and
- (d) The statement of work, specification or any other documents included or referenced in the Order.

## 5. Prices

Unless otherwise specifically stated in the Order and subject to Clause 13 (Variations) below, all prices shall remain fixed and firm and shall not be varied. Unless otherwise shown in the Order, prices shall include delivery charges and packing.

## 6. Delivery

- 6.1 Supplier shall complete and deliver the Items duty paid (DDP Incoterms® 2020) to the Purchaser's facility to the times and dates specified in the Order ("Delivery") and in this respect, time shall be of the essence.

- 6.2 If all or any Items are not delivered or completed by the time or times specified in the Order then Purchaser shall be entitled to determine or conclude the Order in respect of such Items and/or in respect of any Items already delivered or completed under the Order. On such determination Purchaser shall be entitled:
- (a) To return to Supplier at Supplier's risk and expense, any of the Items already delivered and to recover from Supplier any money paid by Purchaser in respect of such Items and in respect of any Services already completed.
  - (b) To recover from Supplier any consequential loss including (but not limited to) any additional expenditure incurred by Purchaser in obtaining other Items in replacement of those in which the Order has been determined.
- 6.3 Purchaser may at any time or times, by notice in writing to Supplier, postpone the date/s for Delivery without thereby incurring any liability and Supplier shall deliver such Items on the date/s so notified and shall not make any claim for adjustment in price or otherwise in respect of any such postponement.
- 6.4 Items purchased with a shelf life must have at least 80% of their life remaining when supplied to Purchaser, unless otherwise specified in the Order.

## **7. Items Not Required**

- 7.1 Should Purchaser decide at any time or times that it no longer requires all or part of any undelivered Items, Purchaser shall be entitled to terminate the Order with respect to the Items which are not required by serving on Supplier written notice to that effect.
- 7.2 The expression 'Termination Notice' means a notice served in accordance with 7.1 above and the expression 'Terminated Items' means the Items which are no longer required.
- 7.3 Upon receipt of a termination notice Supplier shall forthwith (except as may otherwise be directed by Purchaser):
- (a) Stop work on the terminated Items and ensure that no further steps are taken to produce the terminated Items; and
  - (b) Use best endeavours to mitigate its losses and to realise salvage on the terminated Items.
- 7.4 Purchaser shall incur no liability whatsoever to Supplier in respect of any such termination and shall not be liable to Supplier for any loss or damage whatsoever resulting from any such termination except that Purchaser shall within a reasonable time after being requested to do so and receiving full details supporting Supplier's

claim pay to Supplier a reasonable amount for work carried out by Supplier on the terminated Items prior to receipt of the termination notice and the price paid or payable by Supplier for material and parts which prior to such receipt were properly purchased by and delivered to Supplier for the purpose of being incorporated in the terminated Items (such reasonable amount being calculated after deducting the value of all salvage realised or reasonably capable of realisation in relation to the terminated Items).

7.5 No such termination shall affect or alter the Order with respect to any Items which are not the subject of the termination notice.

## **8. Title & Risk**

8.1 Without prejudice to the Purchaser's rights of rejection under these Terms and Conditions, property in the Items shall pass to the Purchaser on Delivery to the place specified in the Order.

8.2 Unless otherwise agreed, including in any agreement incorporated by reference to INCOTERMS, risk in the Items shall remain with Supplier until Delivery. Until such time as risk in the Items passes to the Purchaser, the Supplier shall insure the Items to their full replacement value.

## **9. Product Liability & Insurance**

9.1 Supplier shall indemnify and keep indemnified the Purchaser against all claims, proceedings, damages, losses, expenditure, costs and liabilities which may be made or brought against Purchaser in respect of or in relation to or in connection with the Items whether or not the Items have been incorporated into other equipment or items.

9.2 Supplier shall at all times during the continuance of the Order and thereafter maintain product liability insurance in an amount of no less than £5,000,000.00 (Five Million Pounds Sterling) or its equivalent in terms satisfactory to Purchaser and shall, where requested by the Purchaser, furnish to Purchaser a copy of the policy and evidence of payment of the premium therefore.

## **10. Packing**

10.1 All Items shall be delivered suitably packaged to the destination specified on the face of the Order. Supplier shall not charge Purchaser for pallets; containers or packaging and Purchaser shall not be responsible for storage or return of such items, unless otherwise agreed in writing.

10.2 Purchaser strives to ensure that environmental considerations are included within its procurement decisions. It is a requirement under these Terms and Conditions and all related Orders that Supplier uses only recyclable and/or reusable packaging.

## **11. Advice Notes**

11.1 Where the place of delivery specified in the Order is other than Purchaser's facility, a complete copy of all dispatch documents shall be sent to Purchaser on the day of dispatch. If UK import duty is chargeable on any Items, Supplier shall notify Purchaser in sufficient time for customs arrangements to be made such that import of Items required for re-export may be made duty free.

11.2 Packing lists, release notes, certificates of conformity and any documents necessary for the import or export of the Items shall accompany delivery of the Items where appropriate and except for packing lists, separate documents must be included for each consignment.

11.3 Each consignment of Items shall clearly state the Order number, description, weight, serial number, part, drawing, and specification together with the issue numbers applicable to the manufacturing standard of the Items, (the specification referred to being the technical requirements as stated in the Order).

## **12. Payment & Invoices**

12.1 Supplier shall issue a separate invoice in English for each shipment or billing period. Payments will be made against original invoices only. Fax copies, statements or invoice copies will not be accepted. Unless otherwise specified in the Order, each invoice must contain the following information:

- (a) Order number and line number;
- (b) Order line description;
- (c) The unit price and total price;
- (d) Supplier's invoice number and date;
- (e) The payment terms as stated in the Order;
- (f) Applicable serial, part, drawing, release note numbers, quantities and weights;
- (g) VAT and Supplier's registration number; and
- (h) Any other information that the Purchaser may reasonably request.

Subject to Supplier complying with its obligations under the Order (including, without limitation, these Terms and Conditions) and any applicable legislation, payment of invoices shall be made ninety (90) calendar days after the last day of the month of Delivery.

12.2 Supplier shall render its invoice within six (6) months of the date of Delivery of the relevant Items.

12.3 Supplier releases Purchaser from any obligation to pay an invoice which is issued more than six (6) months after the date of Delivery of the Items.

12.4 Where under these Terms and Conditions any party agrees to pay to any other party any sum or to furnish to any other party consideration which (in either case) is consideration for a taxable supply, that sum or consideration shall be exclusive of Value Added Tax payable on it and the recipient of the supply shall pay an amount equal to such Value Added Tax in addition to any sum or consideration on receipt of a Value Added Tax invoice from the relevant party.

### **13. Variations**

13.1 Purchaser shall have the right to vary the Order at any time or times by notice in writing from Purchaser's Representative to Supplier (including any variations in design and/or specification). If such variation involves an increase or decrease in the total quantity of Items ordered or in the work to be performed by Supplier or in cost or acceleration in the time for Delivery or performance, a fair and reasonable adjustment shall be made to the Order price and/or the time/s of performance and Supplier shall provide all necessary facilities and information to assist Purchaser in implementing such adjustment/s. If Supplier wishes to make any claim for adjustment under this paragraph he shall deliver the same in writing to Purchaser within fourteen (14) calendar days after the date on which the notice is received or such claim shall be deemed waived. Supplier shall support all costs claimed as a result of variations of the Order with detailed and accurate records which Purchaser shall have the right to audit.

13.2 No variations or amendments proposed by Supplier shall be binding upon Purchaser unless agreed by Purchaser and confirmed by Purchaser in writing by an officially authorised amendment to the Order.

### **14. Health & Safety, Statutory Requirements**

14.1 Supplier shall comply with the requirements of the Health and Safety at Work etc Act 1974 and all other Applicable Legislation, rules, guidelines, and codes of practice applicable to the provision of the Items (including without limitation, legislation relating to the notification of precautions to be observed in relation to Items, their handling, operation and storage).

14.2 Supplier shall ensure that full details of any precautions to be observed in relation to the Items shall accompany each consignment of Items and that Purchaser is notified



of all restrictions and/or limitations as to the shelf life of Items forthwith, after the Order comes into effect.

14.3 Supplier shall carry out all risk assessments and ensure safe organisation and implementation of the Services that would ordinarily be expected to be carried out by a provider of goods and services similar to those required under the Order acting in accordance with good industry practice.

## **15. Rejection & Defects**

15.1 Purchaser shall have the right to reject any Items, at any time or times upon or following Delivery if any Items do not conform to the requirements of the Order. Items rejected will be removed by Supplier forthwith at Supplier's expense and Supplier will forthwith refund to Purchaser the price therefore if paid.

15.2 If within thirty six (36) months after Delivery, within twenty four (24) months after being put into service or within the period specified in Annex A (whichever period shall last expire) any of the Items or parts thereof are found to be in any respect defective as to design, materials or workmanship or to be in any respect not in conformity with the Order, Supplier shall upon notification by Purchaser to that effect forthwith, at the cost of the Supplier remedy such defects or non-conformity or at the option of Purchaser replace such Items and deliver and refit the replacements as directed by Purchaser.

15.3 Any Items or Services corrected or replaced pursuant to this Article shall be subject to all provisions of this Clause 15 to the same extent as Items and Services initially delivered.

15.4 Supplier shall pay to Purchaser the amount of all loss, damage, cost and expense which Purchaser may sustain or incur and shall indemnify Purchaser against all claims and proceedings and liability which may be brought against or incurred by Purchaser, as a result of the supply of any defective or non-conforming Items.

## **16. Intellectual Property Rights**

All inventions, designs, methods, processes, data and software discovered or generated as a result or in the course of the Order and all intellectual property rights therein and in anything produced in the course of the Order shall belong to Purchaser and Supplier assigns and agrees to assign the same to Purchaser.

## **17. Indemnity**

If any Items supplied under the Order or used in connection therewith or anything done in relation thereto shall infringe or be alleged to infringe any patent, registered design trade mark, copyright or other intellectual property right Supplier shall indemnify and keep indemnified Purchaser against all claims, damages, expenditure and liability which Purchaser may sustain or incur by reason of or in connection with such infringement or alleged infringement.

## **18. Sub-contracting & Assignment**

18.1 No Items shall be sub-contracted by Supplier without the prior written consent of Purchaser. Supplier shall ensure that its obligations under the Order including those detailed in Annex A hereto are fully incorporated into any purchase orders it places pursuant to this Clause 18.1. Supplier shall upon request of Purchaser supply copies of all purchase orders placed upon any sub-contractors in those cases where permission has been granted to subcontract

18.2 None of Supplier's rights or obligations under the Order shall be assigned to a third party without the prior written consent of Purchaser. Sub-contracting by Supplier shall in no way affect or derogate from the Purchaser's rights or Supplier's obligations under the Order.

## **19. Free Issue Material, Articles on Loan**

19.1 Where Items are manufactured from material supplied by Purchaser, unless agreed otherwise, replacements for any spoiled or lost material shall be ordered from Purchaser at Supplier's liability and expense. If Supplier, for whatever reason, scraps material or components supplied free issue by Purchaser, Supplier shall be responsible for all costs previously incurred by Purchaser including but not limited to material cost and added value.

19.2 Any articles or documentation loaned to Supplier by Purchaser in connection with the Order will remain, at all times, the property of Purchaser and be surrendered to Purchaser upon demand in good serviceable condition and are to be used solely in connection with the Order. Such loaned articles shall be at the risk of Supplier and insured by Supplier at Supplier's expense against loss or damage. Where the Order price includes the cost of making or purchasing tooling and/or inspection equipment, these become the property of Purchaser on completion of the Order or earlier termination and shall be held in safe custody, properly identified and maintained until disposal instructions are issued by Purchaser and shall only be used by Supplier in connection with the Order and other Orders from Purchaser. Supplier shall provide copies of drawings of such articles to Purchaser on request and at no extra charge.

## **20. Termination**

20.1 Should Supplier be in default of any of its obligations under the Order, Purchaser shall, without prejudice to any other right which it may have under the Order or at law including the right to recover damages, have the right to terminate the Order in whole or in part and to procure elsewhere replacements for the Items or Services in respect of which the Order has been terminated. Supplier shall pay to Purchaser the amount if any by which the cost of procuring these replacements exceeds the cost which would have been payable to Supplier for these Items under the Order.

20.2 In the event that Purchaser elects to procure elsewhere replacements in accordance with this clause, Supplier shall promptly provide Purchaser with all information which may reasonably be required to facilitate such change of supplier as well as delivering to Purchaser, immediately upon request, any materials, dyes, tools, drawings etc, the property of Purchaser whether produced under the Order or free issued.

## **21. Liquidation or Bankruptcy**

21.1 Should Supplier (being an individual) commit any act of bankruptcy or if a receiving order shall be made against him, or if Supplier (being a company) is unable to pay its debts (within the meaning of that term under section 123, Insolvency Act 1986); or the Supplier passes a resolution for its winding-up or a court of competent jurisdiction makes an order for the winding up of the Supplier, or if the Supplier shall enter into an arrangement or composition with its creditors or have a receiver or manager appointed or go into liquidation whether voluntary or otherwise (except for the purpose of amalgamation or reconstruction which in the opinion of Purchaser is not detrimental to Purchaser), or any steps are taken for the making of an administration order or the appointment of an administrator under the out-of-court procedure under the Enterprise Act or notice is given of an intention to appoint an administrator in relation to the Supplier, or should Purchaser reasonably consider that Supplier is insolvent, then Purchaser may forthwith terminate the Order and Purchaser shall have no liability to Supplier other than payment for completed Items delivered to and accepted by Purchaser prior to date of termination. Any free issued material, tools, components etc, shall be returned immediately to Purchaser.

## **22. Access**

The Supplier shall, and shall procure that its sub-contractors (if any) shall permit the Purchaser, Purchaser's customer, UK and US Governments, regulatory authorities and their nominees the right to inspect progress of work under the Order at Supplier's premises during normal business hours where requested by the Purchaser.

## **23. Audit, Inspection of Records**

23.1 Supplier shall, free of charge, give such publicity to the award of the Order and participate in such publicity activities relating thereto as Purchaser shall reasonably require.

23.2 The Supplier will and shall procure that its sub-contractors (if any) shall keep records of all acts and things done in the provision of the Items and any Services (including but not limited to all monitoring and testing procedures and other measures taken to ensure the safety of the Items and Services).

23.3 Supplier shall permit Purchaser, Purchaser's customer, UK and US governments and other regulatory bodies access to the records referred to in clause 23.2 above for inspection and/or provide copies to the Purchaser:

- (a) In the event of a cancellation, termination or default;
- (b) In connection with any equitable price adjustment request;
- (c) In respect of any Order for which the Order or related customer order for which the price is based on time and cost of materials or similar mechanism;
- (d) In connection with any alleged or actual violations of Applicable Legislation;
- (e) During any type of litigation; or
- (f) Where reasonably requested to do so by Purchaser.

Such rights shall endure and Supplier shall keep reasonably detailed records of direct labour costs, material costs and all other costs of the performance of the Order for a period of no less than four (4) years from the date of final payment or termination of any warranty under the Order, whichever is later.

## **24. Customer Contract Flowdowns**

Additional terms and conditions flowed down to Supplier from Purchaser's customer's order or contract are contained in Annex A to these Terms and Conditions. The additional terms and conditions are incorporated into these Terms and Conditions and shall apply to the Order.

## **25. Confidentiality**

The Order and the subject matter thereof and any samples supplied by Purchaser and all information supplied by Purchaser and relating in any way to Purchaser's business, processes, research or property, shall be treated as and kept confidential by Supplier. Supplier shall not disclose any of them or any details concerning them for any purpose whatsoever (including advertisements, display or publication) without Purchaser's prior consent in writing, nor shall Supplier use any of them except for the purpose of performing the Order.

## **26. Publicity**

26.1 Supplier shall, free of charge, give such publicity to the award of the Order and participate in such publicity activities relating thereto as Purchaser shall reasonably require.

26.2 When providing the Items and any Services the Supplier must not do or omit to do anything which may, in the sole opinion of the Purchaser, bring the Purchaser's name, or the name of any company with the Purchaser's group, or the name of any customer of the Purchaser into disrepute or damage its reputation, goodwill or business interests.

## **27. Deliveries Made**

27.1 If Supplier delivers quantities in excess of the quantity due, Purchaser shall have the right to accept at a reduced price or reject the quantity in excess of that due.

27.2 Subject to clause 6.2, if Supplier delivers a lesser quantity than that due, Purchaser may, at its option, elect to pay only for the quantity delivered and to accept the same in lieu of the proper quantity and Supplier shall upon request deliver the outstanding quantity to Purchaser free of charge.

27.3 Purchaser shall not be obliged to accept delivery of any Items prior to the Delivery date and if Purchaser shall do so:

- (a) Purchaser shall be entitled to charge storage to Supplier and
- (b) The date for payment shall be calculated according to the due Delivery date.

## **28. Quantity, Quality and Description of Items**

28.1 Without prejudice to clause 15, the Supplier agrees and warrants to the Purchaser that the Items shall:

- (a) Conform with regards to quantity, quality and description with all the requirements of the Order (including without limitation, these Terms and Conditions);
- (b) Be of sound materials, workmanship and design;
- (c) Meet any quality standard, and be capable of any performance, specified in the Order or otherwise made known to the Supplier by the Purchaser;
- (d) Conform to any samples or patterns or specifications provided; and
- (e) Be fit for the purpose and capable of the performance required by Purchaser.

28.2 First Article Inspection shall, if required, be undertaken by Supplier at no cost to Purchaser.

28.3 In the event that the Items stated to the Order contain the following specialty metals:

### 28.3.1 Steel:

- 28.3.1.1 With a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or
- 28.3.1.2 Containing more than 0.25 percent of any of the following elements: aluminium, chromium, cobalt, molybdenum, nickel, niobium (columbium), titanium, tungsten, or vanadium;
- 28.3.2 Metal alloys consisting of:
  - 28.3.2.1 Nickel or iron-nickel alloys that contain a total of alloying metals other than nickel and iron in excess of 10 percent; or
  - 28.3.2.2 Cobalt alloys that contain a total of alloying metals other than cobalt and iron in excess of 10 percent; Titanium and titanium alloys; or
- 28.3.3 Zirconium and zirconium alloys; or
- 28.3.4 Specialty metal mill products, such as bar, billet, slab, wire, plate, or sheet, that have not been incorporated into commercial off the shelf (COTS) end items, subsystems, assemblies, or components; or
- 28.3.5 Forgings or castings of specialty metals, unless the forgings or castings are incorporated into COTS end items, subsystems, or assemblies; or
- 28.3.6 Commercially available high performance magnets that contain specialty metals, unless such high performance magnets are incorporated into COTS end items or subsystems;

By accepting or performing the Order, Supplier warrants that these specialty metals have been melted or produced in one of the following countries: USA, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Israel, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, or United Kingdom of Great Britain and Northern Ireland.

## 29. Quality Control

Supplier shall supply Items against this Order which fully comply with the Quality Assurance Requirements for Suppliers PUR-SOPS-003.

## 30. Obsolescence

- 30.1 Without prejudice to any other rights or remedies of Purchaser under the Order or otherwise, Supplier undertakes at his expense to ensure the maintainability of any Items to be supplied under the Order which may become obsolete at any time during the Order and for a period of twenty four (24) months after Delivery. Supplier's obligations in this respect shall be fulfilled either by redesign of the Items or by a contribution of two (2) years' worth of spares as part of an (last time buy?) of spares for the Items.

30.2 Supplier shall inform Purchaser in sufficient time to allow for a last time buy to be placed by Purchaser, should any Item ordered be likely to become obsolete.

### **31. Liquidated Damages**

31.1 If any of the Items are not delivered (and, where applicable, installed to the satisfaction of Purchaser) within the time or times specified in the Delivery schedule of the Order, Supplier shall be liable to pay to Purchaser the following sum in liquidated damages in relation to the Items in respect of each complete calendar month in which delay occurs :

- (a) A sum amounting to 5% of the agreed price for each Item for each completed calendar month of such failure in Delivery up to maximum of 6 completed calendar months.
- (b) The sum shall be calculated on a pro-rata daily basis for periods other than whole months, commencing from the thirty first day after the date specified for Delivery.

The agreement under this Condition shall be irrevocable in the absence of agreement in writing between Supplier and Purchaser to vary the provision.

31.2 The said sum/s represents a reasonable pre-estimate of the loss or damage likely to be sustained by Purchaser in the event of such failure in Delivery

31.3 The provisions of this Condition are, as stated, without prejudice to any other rights of Purchaser under the Order. Accordingly, liquidated damages shall be payable hereunder in respect of any material period during which the Order subsists, notwithstanding its ultimate determination.

31.4 No payment or concession to Supplier by Purchaser or other act or omission of Purchaser shall in any way affect the rights of Purchaser to recover the said liquidated damages or be deemed to be a waiver of the right of Purchaser to recover such damages unless a waiver has been expressly stated in writing by Purchaser.

### **32. Compliance with Export Control**

32.1 Supplier hereby agrees to comply with all applicable import and export control laws and regulations, including but not limited to the requirements of the ARMS Export Control Act, 22 USC 2751-2794, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Act, 50 USC app 2401-2420 (as amended), including the requirements for obtaining any and all export licence/s and/or agreement/s, if applicable. For the avoidance of doubt, a failure to comply

with these requirements will constitute a material breach of these Terms and Conditions.

32.2 Supplier shall notify the Purchaser immediately in writing if any of the subject matter of this Order (wholly or in part) is restricted by the above Export Regulations.

### **33. Other Rights and Obligations**

The rights and remedies of Purchaser and the obligations of Supplier expressed herein are additional to and are not in substitution of or derogation from, any other rights or remedies available to Purchaser or any other obligations of Supplier under statute or common or other law or custom.

### **34. Waiver**

Supplier shall inform Purchaser in sufficient time to allow for a last time buy to be placed by Purchaser, should any Item ordered be likely to become obsolete.

No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

### **35. No Partnership or Agency**

Nothing in the Order (including, without limitation, these Terms and Conditions) shall create a partnership or joint venture between the parties or render a party the agent of the other, nor shall a party hold itself out as such (whether by an oral or written representation or by any other conduct) and save as expressly provided in these Terms and Conditions, neither party shall enter into or have authority to enter into any engagement, or make any representation or warranty on behalf of, or pledge the credit of, or otherwise bind or oblige the other party.

### **36. Gratuities; Anti Bribery**

Supplier agrees that it has not, nor will, offer or give a gratuity to any individual or public official for the purpose of obtaining, or rewarding favourable treatment in relation to this Order or with the intention of influencing, including but not limited to, a UK or foreign Government contract. The Supplier represents that it has not nor will act in anyway contrary to any provisions contained within the Foreign Corrupt Practices Act; UK Bribery Act 2010 or any other applicable anti-bribery laws.



## 37. Modern Slavery Act 2015

### 37.1. The Supplier shall:

- 37.1.1. comply with, and not engage in any activity, practice or conduct that would constitute an offence under, any applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including, but not limited to, the Modern Slavery Act 2015 (the “**MSA**”);
- 37.1.2. take all reasonable steps to ensure that slavery or human trafficking are not taking place in its business or supply chain;
- 37.1.3. have its own or adopt the Purchaser’s policies on modern slavery and human trafficking policy (“**MSP**”) and ensure that all relevant personnel of the Supplier have received appropriate training on the same;
- 37.1.4. include in its contracts with its subcontractors and suppliers provisions that are at least as onerous as those set out in this clause and promptly provide evidence in writing to the Purchaser of compliance with this clause on request; and
- 37.1.5. on reasonable request make, and require any relevant member of its supply chain to make, such adjustments to any processes that relate to staff hiring and supplier selection as the Purchaser considers to be desirable to address any risk of non-compliance with legislation or this clause.

### 37.2. The Supplier represents and warrants that:

- 37.2.1. it conducts its business in a manner that is consistent with the MSP;
- 37.2.2. its responses to the Purchaser’s slavery and human trafficking due diligence questionnaire are complete and accurate; and
- 37.2.3. neither the Supplier nor any of its officers, employees or other associated persons:
  - a) has been convicted of any offence involving slavery and human trafficking; and
  - b) to the best of its reasonable knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of, or in connection with, slavery and human trafficking.

### 37.3. The Supplier shall notify the Purchaser as soon as it becomes aware of:

- 37.3.1. any breach, or potential breach, of the MSA or any applicable legislation; or
- 37.3.2. any actual or suspected slavery or human trafficking in a supply chain which has a connection with this agreement.

### 37.4. The Supplier shall indemnify the Purchaser against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Purchaser as a result of any breach of the MSA or any similar legislation.

### 37.5. Each Party agrees and understands that any activity that would constitute an offence under the MSA or any similar legislation, is forbidden and would result in the termination of this agreement with immediate effect.

### **38. Further Assurance**

Each party shall execute such documents and take such steps as the other party may reasonably require to fulfil the provisions of and to give to each party the full benefit of the Order (including, without limitation, these Terms and Conditions).

### **39. Set-Off**

The Purchaser may at any time, without notice to the Supplier, set off any liability of the Supplier to the Purchaser against any liability of the Purchaser to the Supplier howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency of its denomination. Any exercise by the Purchaser of its rights under this clause shall be without prejudice to any other rights or remedies available to the Purchaser under this Agreement or otherwise.

### **40. Notices**

Any notice to a party under the Order (including, without limitation, these Terms and Conditions) shall be in writing in the English language, signed by or on behalf of the party giving it and shall be delivered personally, by pre-paid first class post, (or airmail, if abroad), pre-paid recorded Delivery (or international equivalent) to the address of the party as set out on the Order, or as otherwise notified in writing from time to time. A notice shall be deemed to have been served at the time of Delivery, if delivered personally, or forty eight (48) hours after posting for an address in the United Kingdom and five (5) Business Days after posting for any other address.

### **41. Applicable Law**

- 41.1 The construction, interpretation, validity and performance of the Order (including, without limitation, these Terms and Conditions) and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, shall be governed by the laws of England.
- 41.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the Order (including, without limitation, these Terms and Conditions).

### **42. Entire Agreement**

- 42.1 These Terms and Conditions supersede all previous understandings between the parties, whether oral or written.
- 42.2 Subject to the provisions of Clause 4 'Precedence' hereof, the Order and any other document incorporated by reference shall be considered as one and the same document to form the complete Order between Purchaser and Supplier with respect to the Item/s to be supplied under the Order.

## **ANNEX A**

### **FLOW-DOWN TERMS AND CONDITIONS**