

STEM Drive Limited

Conditions of Purchase

In these conditions

‘the Company’	means STEM Drive Limited
‘the Supplier’	means any person, firm or company with whom the Company places an Order for the purchase of Goods and/or Services.
‘Goods’	means the Goods designated or referred to in the Order.
‘Services’	means any work or services to be provided to the Company pursuant to the Order.
‘Order’	means the written Order placed with the Supplier by the Company.
‘Contract’	means the supply of Goods and/or Services pursuant to the Order.
‘the Specification’	means the technical or other description (whether as to quantity, quality, price, weight or otherwise) of the Goods and/or Services shown or referred to in the Order and any performance schedules and/or other characteristics and details contained, mentioned or referred to therein or prepared in accordance therewith.

1. APPLICATIONS OF THESE CONDITIONS

- (a) All Contracts shall be concluded upon the basis of these Conditions of Purchase alone, together with any Special Conditions issued by the Supplier and to the Supplier at any time prior to or with the Order which can only be varied or qualified by a document signed by a duly authorised officer of the Company and setting out in full the relevant variations and qualifications.
- (b) In the case of any inconsistency between these Conditions and any document sent by the Supplier to the Company, irrespective of their respective dates, the provisions of these Conditions shall prevail.

2. ORDER

The Company shall be bound by an Order only if it is placed on its official Order form.

3. TITLE, QUALITY & DESCRIPTION

- (a) The Goods shall: -
 - (i) Remain the absolute property of the Supplier free of lien, charge or other encumbrance until property therein passes to the Company.
 - (ii) Comply strictly with the Specification and/or any sample, any and all regulations applicable to the Company; all relevant statutory rules, order and instruments having force of law and where necessary any relevant British or other standard Specification. Be in every respect fit for the purpose and the standard of performance for which the Company has expressly or impliedly made known that it requires the same and shall be of merchantable quality and of a standard not less than that of previous supplies (if any) approved by the Company.
 - (iii) The Services shall be carried out with due diligence and in a good and workmanlike manner in accordance with the Order and any description or Specification agreed with the Company and shall be completed to the entire satisfaction of the Company.
- (b) The Company shall be entitled to reject or refuse to accept any Goods and/or Services which fail to comply with the requirements or sub-clauses 3(a) and/or (b) at any time within twelve months of the date of their delivery. Provided that where Goods are supplied in bulk and part only of such Goods are found not to comply with the requirements of Clause 3(a) the Company shall only be entitled to reject all the Goods if the Company reasonably believes that the remainder of the Goods yet to be included will not so comply and/or by reason of such non-compliance as has been established by the Company, the Goods cannot be used to the Company's reasonable satisfaction.
- (c) Where the Company is entitled to reject or refuse to accept any Goods and/or Services:-
 - (i) The Company shall not be obliged to return the Goods to the Supplier but, if it elects to do so, they shall be so returned at the expense and risk of the Supplier.
 - (ii) At the option of the Company the Supplier shall: -
 - (a) Replace the Goods or re-perform the Services (as the case may be) or
 - (b) Refund the purchase price in full, together with interest thereon at two percent above the average of the base rates of the London clearing Banks in force from time to time during the period of delay and in addition, any expense reasonably incurred by the Company as a result of the failure in the Goods and/or Services to comply with the provisions of sub-clauses 3(a) and/or (b).

4. OVERAGES

- (a) Overages in excess of current trade practice with regard to the relevant Goods shall remain at the risk of the Supplier not withstanding delivery and may, at the option of the Company, be returned at the expense and risk of the Supplier. Such Goods shall not be paid for.
- (b) Services performed in excess of those stated in the Order shall not be paid for.

5. TIME

- (a) Time shall be of the essence of the Contract where delivery or performance date is specified in the Order and where such date is stated as approximate or is not specified and in either case the date upon which the Company could reasonably have expected such delivery or performance to be affected has passed and the Company gives the Supplier written notice specifying a delivery or performance date for a certain number of days later for the purpose of which time shall be of the essence. If the Supplier is, or is likely to be, unable to effect delivery or performance on or by the date specified in the Order, the Supplier shall promptly give the Company written notice of the relevant circumstances together with a date upon which the supplier reasonably expects to be able to fulfil the Order.
- (b) Notwithstanding the service of any such notice as aforesaid but save where the Company has given to the Supplier the written extension of time and the period thereof has not expired, failure by the Supplier to adhere to any provision as to time contained, mentioned or referred to in the Order shall entitle the Company to treat the Contract as repudiated in whole or in part, whereupon risk in any Goods already delivered and affected by such determination shall revert to the Supplier and the Supplier shall be liable to pay any monies already paid by the Company in respect of the Contract together with interest at two percent above the average of the base rates of the London clearing Banks in force from time to time during the period of delay and shall compensate the Company for any loss directly and foreseeable incurred by it in consequence of the late delivery or performance (as the case may be).

6. DELIVERY

- (a) The Goods, properly packed and secured in such a manner as to reach their destination in good condition, shall (unless otherwise directed by the Company) be delivered by and at the cost and risk of the Supplier to the agreed destination and in the manner specified in the Order.
- (b) Delivery shall be effected when Goods have been unloaded and the delivery has been accepted by a duly authorised officer, employee or representative of the Company.
- (c) In the event that Goods are delivered before the date specified in the Order without the express written consent of the Company, the Company shall be entitled to refuse to take delivery or to charge for insurance and storage thereof until the contractual date for delivery.
- (d) If for any reason the Company is unable to accept delivery of the Goods at any time when the Goods are due and ready for delivery and notifies the Supplier accordingly, the Supplier shall store the Goods for a reasonable time having regard to the circumstances and shall safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery.

7. PACKAGING

All packaging and cases are to be supplied free of charge but may be returned at the request, risk and expense of the Supplier if so requested.

8. PRICE AND PAYMENT

- (a) The price payable by the Company shall be as specified in the Order.
- (b) If the Supplier shall wish to increase the price specified in the Order it shall give written notice of increase to the Company which shall have the option to accept such increase or to cancel the relevant Order (without liability or penalty) within ten working days of its receipt thereof.
- (c) No payment of or on account of the price shall constitute any admission by the Company as to proper performance by the Supplier of its obligations.
- (d) Unless otherwise provided by the Order, the price shall be payable by the Company to the Supplier at the end of the 2nd month following the month of invoice.

9. RISK AND TITLE

Risk and title to all Goods supplied pursuant to the Contract shall pass to the Company on their delivery in accordance with Clause 6(b). Provided that if payment for the Goods is made prior to their physical delivery the Company shall have a lien on the Goods (or on the constituent part appropriated to their manufacture) to the value or the sum of such payments (each Order being considered as a whole).

10. INSPECTION AND TESTING

Any authorised representative of the Company shall be entitled to inspect the Goods and/or Services at any reasonable time at the Supplier's premises or elsewhere (as the case may be) and to require all defects or deficiencies to be made good and alterations made in the event of any failure in the opinion of the said representative to comply with the terms of the Order, provided nevertheless that such inspection or right to cancel shall not of itself constitute acceptance or approval of the Goods or Services.

11. HEALTH AND SAFETY

- (a) All Goods must be safe and without risks to health when in use or otherwise and all necessary information and instructions for the safe and proper use of the Goods shall be supplied to the Company prior to or on delivery. In particular the Supplier shall notify any operational or health risk which may arise during the handling, storage, use or disposal including known misuses of the Goods, and where appropriate conspicuous labels and warnings shall be affixed on every item thereof and any container in which the Goods shall be supplied.
- (b) All Services must be performed strictly in accordance with the Company's Safety Conditions for Contractors the provisions of which are hereby incorporated in these conditions.

12. DRAWINGS, PATTERNS, TOOLS AND DIES

- (a) All Specifications, drawings, designs, prints, samples, plans, patterns, dies, moulds or tools supplied by the Company or made or obtained by the Supplier at the request and expense of the Company shall be the sole property of the Company and shall not be used by the Supplier other than for the purpose of performing its obligations under the Contract.
- (b) Any price quoted on the Order shall be deemed to include the price of any such items which may be required for the performance of the Contract and title therein shall pass to the Company on payment of the Order price pending which the Supplier shall keep such items in safe custody and shall insure them against all risks in the joint names of itself and the Company.

13. INDEMNITY

- (a) The Supplier shall indemnify the Company against: -
 - (i) All losses, costs, damages, expenses and claims caused to or made against the Company which would not have been caused or made had the Supplier fulfilled its express or implied obligations under the Contract including but not exclusively all sums expended by the Company in securing alternative supplies of all or any of the Goods and/or performance of all or any of the Services (including any sum expended by reason of any increase in costs thereof and compensation for any loss to the Company caused by delays to its prosecution of the Contract).
 - (ii) All claims made against the Company arising out of the acts and omissions of the Supplier, its sub-contractors or their respective employees or agents. And the Supplier shall effect and maintain a policy of insurance to cover such of the aforementioned liabilities as are relevant to the Order and shall procure such policy or policies and evidence of payment of the premium therefore if so required by the Company.
- (b) The Supplier shall further indemnify the Company against any claims for infringement of any letters, patent, copyright, registered design, or trade mark by reason of the use or sale of the Goods supplied and/or Services performed (save where the same shall have been manufactured/performed in accordance with Specifications supplied by the Company) and against all losses, costs, damages, expenses and/or claims for which the Company may become liable as a result of such claims for infringement.

14. SUPPLIER'S INSOLVENCY OR DEFAULT

- Without prejudice to any other rights or remedies to which it may be entitled the Company may terminate the Order forthwith and without liability in the event that:-
- (a) The Supplier shall become bankrupt or unable to pay its debts as prescribed by Section 518 of the Companies Act 1985 or compound with its creditors or in the event of a resolution being passed or proceedings commenced for the administration or liquidation of the Supplier (other than for a voluntary winding up for the purpose of reconstruction or amalgamation) or if a Receiver or Manager is appointed of all or any part of its assets or undertaking.
 - (b) The Supplier commits any breach of its obligations hereunder and fails to rectify such breach within seven days of receipt of written notice from the Company requiring remedy thereof.
 - (c) The Company shall receive information that leads it reasonably to believe that the Supplier will be unable, by reason lack of cash or credit facilities to complete the Contract satisfactorily and on time.

In any such circumstances the Company shall be entitled to cancel the Contract in whole or in part by notice in writing without prejudice to any right or remedy accrued or accruing to the Company.

15. CHANGES AND TERMINATION

- (a) The Company may at any time by notice in writing require changes in Specification, method of shipment, of packing, place of delivery, general extent, scope or time scale of the Contract. If any such change affects the time for or cost of performance a mutually agreed equitable adjustment shall be made in time fixed for delivery and/or to the purchase price (as the case may be). The supplier shall not be entitled to delay in proceeding with the Contract as changed pending agreement as herein required nor to treat the Contract as repudiated and claim damages or any other relief from or against the Company by reason of any such alteration.
- (b) Without prejudice to any other provision of the Contract or any other lawful right available, the Company shall have the right to terminate the Contract in whole or in part at any time by giving written notice to the Supplier whereupon all works thereby cancelled shall be discontinued and the Company shall pay to the Supplier such portion of the Order price as may be fair and reasonable having regard to the value of the Goods delivered and/or Services performed under the Order and in such event no further sum or sums shall be due by way of damages, loss of profits or otherwise from the Company to the Supplier by virtue of termination.

16. ASSIGNMENT AND SUB-CONTRACTING

- (a) The Supplier shall not assign or sub-contract the Contract or any part thereof without the express written authority of the Company.
- (b) Any authority given by the Company for the Supplier to the sub-contract the Order or any part thereof shall not relieve the Supplier of any of its obligations thereunder nor impose any duty on the Company to enquire as to the competence of any authorised sub-contractor but the Supplier shall ensure that any authorised sub-contractor is competent and complies with the relevant provisions of the Contract.

17. VALUE ADDED TAX

In the event that the supplier is registered for Value Added Tax it is required to issue a proper tax invoice in accordance with the relevant legislation before the Company shall be required to make payment for Goods and /or Services supplied in accordance with the Order.

18. FORCE MAJEURE

The Company shall not be liable for any delays or failure to perform obligations hereunder where such delay or failure is due to Acts of God, war, riot, terrorist activity, civil commotion or any government restriction, order or regulation or statutory prohibition.

19. NOTICES

In all cases notices shall be in writing and shall be deemed to have been received on delivery if delivered by hand, three days after posting by first class mail, or forty eight hours after transmission by E-Mail or facsimile to the address of either the Company or the Seller as shown on the Order.

20. ENGLISH LAW

The Contract is subject to English Law and to the non-exclusive jurisdiction of the English Courts.

21. PRECEDENCE OF CONDITIONS

Where appendices special instructions and/or conditions form part of this Order and are inconsistent with the standard terms and conditions, then the terms, conditions and requirements stated in the appendices, special instructions and/or conditions will take precedence over the standard terms and conditions.