

**AIR & GROUND AVIATION LIMITED**

**STANDARD TERMS AND CONDITIONS OF SALE**

**1. DEFINITIONS AND INTERPRETATION**

1.1 These definitions and rules of interpretation shall have the following meanings and apply in these conditions to sales and repair activity.

**The Company** means Air & Ground Aviation Limited (registered number 3161248) having a registered office at: Aviation House, London Road, Shirleywich, Staffordshire, ST18 0PN United Kingdom;

**Acceptance** means the Purchaser is deemed to have accepted these Terms and Conditions by issuing an Order to the Company and the Purchaser will be bound by any additional terms required by the Company on the order acknowledgment. Furthermore, the Company will not be bound by any conditions on the Order which are in conflict with these Terms and Conditions of Sale unless such deviations have been expressly agreed in writing and signed by a duly authorised officer of the Company; further explained in Clause 2 below.

**Administrative Charge** means a fee assessed on a purchase for the time and expense of processing the purchase. The charge will include costs for:

- The preparation and submission of export licences,
- Processing credit card information online.
- Freight charges, where required.
- Insurance, where required.

**Authorised Person** means the Purchaser's nominated person who is legally capable of placing an order and of entering into a binding contract;

**BIS** means the United Kingdom Department for Business, Innovation and Skills.

**Business days** shall mean any day other than Saturday, Sunday or legal holiday of the United Kingdom on which legal business can be conducted

**Conditions of Sale** shall mean the clauses set out in these Conditions of Sale and any amendments thereto issued from time to time or which have been expressly agreed in writing and signed by a duly authorised officer of the Company;

**Contract** shall mean the Purchaser's written instruction in the form of a Purchase Order issued to the Company for the supply of the Goods and/or performance of Work as set out in the Contract Documents incorporating these Conditions and which may include any special conditions or endorsements that are agreed between the Parties

**Contract Documents** shall mean and include the Company Quotation, these Conditions of Sale, the Customers Order and the Order Acknowledgment;

**Contract Price** shall mean the Grand Total shown on the Quotation that will include the agreed charges for the supply of the Goods or services and all other related cost to be paid by the Purchaser;

**Controlled exports** shall mean a controlled item or material that will be subject to export license application and approval by the UK Export Control Organisation (ECO), before being exported.

**Credit Limit** shall mean the maximum amount of credit that the Company may extend to the Purchaser from time to time;

**Date** Relevant dates will be shown in the European convention: day/month/year.

**Days** will be shown as business days unless shown otherwise.

**Delivery Terms** Unless otherwise agreed and shown on the Quotation, delivery terms to the Purchaser will be Ex- Works (EXW), Shirleywich, United Kingdom). See Clause 4 below.

**Delivery Point** Where the Purchaser opts for Delivery Terms other than EXW; the Delivery Point will be the place where delivery of the Goods is to take place under Condition 4 below and as indicated by the Purchaser in the Order Acknowledgement. Carriage charges will be paid by the Purchaser.

**Description** Any description given or applied to the Goods is given by way of identification only and the use of such description shall not constitute a sale by description. For the avoidance of doubt by issuing a Purchase Order to the Company the Purchaser affirms that it does not in any way rely on any description when entering into the contract;

**EAR** shall mean the United States Export Administration Regulations.

**End Use Undertaking** shall mean a declaration for export control purposes signed by the Purchaser to guard against the risk of UK exports being diverted or re-exported to "undesirable" end-users.

**Force Majeure** shall have the meaning as set out in Clause 12.

**Goods** means those raw materials, services or finished Goods defined and agreed in the Contract to be provided by the Company to the Purchaser (including any part or parts of them).

**Headings** headings are for convenience only and shall not affect the interpretation of these Terms and Conditions or purported to be included in the Purchaser's order.

**INCOTERMS** The current version and application codes for delivery and transport charges/fees as shown on the International Chamber of Commerce website will be used on the Contract Documents.

**ITAR** shall mean the United States International Traffic in Arms Regulations.

**Language** This Contract, data, notices, shipping invoices, correspondence and other communications in writing shall be written in the English language. In the event of any inconsistency between any terms of this Contract and any translation thereof into another language, the English language meaning as defined in the Oxford dictionary shall have primacy

**Law** the Contract and all matters pertaining thereto shall be governed by the laws of England and Wales and the Supplier agrees to submit to the exclusive jurisdiction of the English Courts

**Liability** means all liability of whatsoever nature including but without implying limitation whether by reason or in consequence of any breach of contract or of statutory duty or tortious or negligent act or omission and the words "liable" and "liability" shall be construed accordingly.

**Limit of liability** See Clause 10 of these Conditions

**Notices** shall mean any notice or communication given under or pursuant to the Contract that may be sent by hand or by post or by registered post or by recorded delivery service or transmitted by telex, facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Order, or to such other address as the party may give by notice to the other have substituted therefore, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours. A scanned copy of the notice issued and signed by an authorised representative of the Parties and transmitted as an attachment to emails between the Parties, shall be deemed for all purposes to be an original and admissible in any legal proceeding.

**OEM** Original Equipment Manufacturer

**Order Acknowledgement** means the Company's written form of acknowledgement of the Purchase Order and transmitted to the Purchaser or to such other address substituted therefore as the Purchaser may give by notice to the Company.

**Parties** means the Company and the Purchaser

**Purchaser** means the person, firm or company shown on the Purchase Order.

**Purchaser's Agents** means the Purchaser's agents, couriers, servants, consultants and advisers.

**Purchase Order** A document generated by the Purchaser that sets forth the descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, other associated terms and conditions agreed with the Company and authorises a purchase transaction for the Company to supply the Goods and/or Services. When accepted and acknowledged by the Company it establishes a contract that is binding on both parties.

**Repair** means any repair, overhaul, inspection, and/or testing arranged by the Company to meet the Purchasers requirements.

**Quotation** shall be a communication provided by the Company showing price, costs and terms for providing the Goods and services and are not binding until a Purchase Order has been issued by the Purchaser and acknowledged (accepted) by the Company. This may also be referred to as a Quote or a Proposal. Quotations provided by the Company are subject to:

- Errors and Omissions Excepted (E&OE)
- Subject to Contract (STC)
- Subject to Prior Sale (STPS)

**Services** means those services defined and agreed in the Contract to be provided by the Company to the Purchaser.

**Third Party** means any individual, entity or corporation other than the Company and the Purchaser.

**Work or Works** means the activities associated with the supply of Goods or services by the Company as described and set out in the Contract and which may include design, manufacture or assembly.

## 2. FORMATION OF CONTRACT

2.1 All quotations are made and all orders are accepted by the Company subject to these Conditions of Sale. The Purchaser's instruction to proceed with the supply of Products and/or Work and acceptance of an order by the Company shall constitute agreement to these Conditions of Sale without recourse to other conditions or contractual terms purported to apply.

2.2 No modified or other conditions will be applicable unless they are expressly agreed in writing and signed by an authorised officer of the Company. Failure of the Company to object to any conditions or contractual terms contained in any order or other communication from the Purchaser shall neither be construed as a waiver of the applicability of these Conditions of Sale nor an acceptance of such other conditions or contractual terms.

2.3 Quotations are provided in good faith and on the basis that no Contract shall come into existence until the Company acknowledges the Purchaser's order, see Clause 2.1 above. A Quotation is capable of acceptance only by the Purchaser within the validity period stated therein or, when no period is so stated, within ninety (90) days after its date of issue. Any quotation is valid provided that the Company has not previously withdrawn or extended it.

2.4 To enable the Company to issue an Order Acknowledgement and to proceed with the Order, any Quotation accepted from the Purchaser in the form of an Order is to be on the basis that the instructions contained therein are clear and unambiguous and any specific requirements are complete.

2.5 Quotations are subject to change by the Company at any time before notice and acceptance by the Purchaser.

2.6 **Customer Owned Goods.** The Company holds Goods for Owners on a consignment basis and it is a condition of the agreements between the Company and these Owners, that full payment is received in cleared funds has been made and received by the Company in advance before release of the Goods. The Owner of these Goods has imposed a reserved right to withdraw, recall or sell the Goods under his own Terms and Conditions at any time up to the point of despatch to the Purchaser. The Company has no control over any such recalls.

2.7 Should the goods be out of contract and they remain on site with Air & Ground then we hold the right to charge a storage fee of £2 per pallet per day. If the goods are oversized the equivalent in pallet sizes will be charged. If the goods are floor space only then a charge of x3 pallet high by length of pallets will be charged.

2.8 For lot/package sales, additional Terms and Conditions may issued and applied on a case-by case basis. These additional Terms and Conditions, when issued, will form part of the Contract.

## 3. DESCRIPTION

3.1 The quantity, material condition and description of the Goods will be as set out in the Company's quotation.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the

- sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
- 4. DELIVERY AND ACCEPTANCE**
- 4.1 Unless otherwise agreed and shown on the Quotation, delivery terms to the Purchaser are Ex- Works (EXW - Incoterms)) at the Company's place of business located at Shirleywich, United Kingdom.
- 4.1.1 Where the Purchaser requires delivery to be made using their own carrier and account number, the delivery shall be deemed to have taken place on collection by the carrier or agent. The Purchaser shall be responsible for Goods lost or damaged in transit and shall ensure adequate insurance cover is arranged or has opted not to insure.
- 4.2 The Purchaser shall take delivery within 5-days of the Company giving notice that the Goods are ready for collection by their Agent. If the Goods have not been collected within the 5-day period, the Company will impose on him an obligation to take delivery under the Torts (Interference with Goods) Act 1977 Section 12 Schedules 1Part 1 and Schedule 2.
- 4.3 Dates specified by the Company on the Quotation for the availability and delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.4 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Purchaser to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.5 The Company will not be liable if the Purchaser fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Purchaser has not provided appropriate instructions, documents, licenses or authorisations. On these occasions:
- 4.5.1 Risk in the Goods shall pass to the Purchaser (including for loss or damage caused by the Company's negligence);
- 4.5.2 the Goods shall be deemed to have been delivered; and
- 4.5.3 the Company may store the Goods until delivery, whereupon the Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.6 The Purchaser shall provide at the Delivery Point and at its own expense adequate and appropriate equipment and manual labour for off-loading the Goods.
- 4.7 If the Company delivers to the Purchaser a quantity of Goods of up to 10% more or less than the quantity accepted by the Company on the order, the Purchaser shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or short fall and shall pay for such Goods at the pro rata Contract rate.
- 4.8 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.9 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Purchaser to repudiate or cancel any other Contract or instalment.
- 4.10 The price shown on the Quotation includes free packing, handling and packaging materials. Goods will be packed to Commercial or Trade Pack standard and over packed for transit, where appropriate. Any special packaging requirements of the Customer will be charged at cost. The Purchaser should state their preferred method of delivery and provide the name of their nominated carrier and account number which they require the Goods to be shipped on. If the Purchaser requires Goods to be shipped on the Company's freight account, there will be an additional charge to the Sales Invoice noted as 'Freight Charge'.
- 4.10.1 The Company will accept no liability for damages in transit or short shipments where the Goods have been collected and transported by the Purchaser's nominated carrier or on the Company's Carrier account. Such instances should be reported immediately to the Carrier.
- 4.10.2 Where the Purchaser's nominated carrier is unable to fulfil its obligations and the Company incurs costs transporting Goods on the Purchaser's behalf, the Company shall invoice the Purchaser for reimbursement.
- 4.11 Acceptance**
- 4.11.1 The Purchaser shall be deemed to have accepted the Goods if they have not been rejected on or before the 7<sup>th</sup> calendar day after collection by their Agent The Purchaser shall not be entitled to reject the Goods in whole or in part after such date and full payment shall be required.
- 4.11.2 Should the Goods fail the Purchaser's inspection within the 7-days, then a Notification of Quarantine (Returned Material Authority (RMA)) should be requested from the Company. Due recognition by the Purchaser is to be made of Clause 11.7 below.
- 4.11.3 No Goods are to be returned for credit or refund to the Company without prior written consent from the Company's Head of QHSE
- 4.11.4 Exchanges and Returns must be returned in the original outer and inner packing. The original Copy of the Invoice or Pick List for Goods should be packed with the returned Goods. The RMA number is to be shown on the documents and on the exterior of the packing.
- 4.11.5 On a case by case basis where the Company supplies an incorrect item or damaged item, freight charges incurred by the Purchaser may be reimbursed through the issue of a credit note for use on subsequent orders. Claims for Goods damaged in transit by the Purchaser's carrier will not be accepted.
- 4.11.6 Title to the Goods does not transfer until payment has been received in full and cleared and subject to clause 9 below.
- 4.11.7 Failure to comply with the Conditions above will result in denial or refund or a 45% restocking fee may be incurred.
- 4.12 Cancellation**
- 4.12.1 No order which has been accepted by the Company may be cancelled by the Purchaser except with the Company's agreement and confirmed in writing and on such terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), cost, (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation

4.12.2 No order which has been accepted by the Company may be cancelled if the Goods have been despatched or notification that they are ready for collection has been issued.

## 5. PRICE

5.1 The price for the Goods shall be the price set out in the quotation, unless otherwise agreed by the Company in writing. The Contract Price is unless otherwise expressly stated will be net, Ex-Works and exclusive of VAT and does not include other administrative charges; such charges will be shown on the Quotation text notes or advised separately.

5.2 The price for the Goods shown on the Company quotation shall be exclusive of any local or governmental taxes and all such costs or charges in relation to specialist packaging, loading, unloading, carriage and insurance, unless agreed in writing. Such charges will be shown on the quotation and the Purchaser shall pay these in addition when it is due to pay for the Goods.

5.3 Purchaser shall pay to the Company any VAT in accordance with UK regulations arising from the supply of the Goods or Services. The Purchaser shall supply such documentation as required within the necessary time limits to ensure compliance with VAT and Customs regulations. The Company reserves the right to charge additional costs and VAT where this documentation or information is not provided or /and the nature of the transaction has changed.

## 6. NON-DELIVERY

6.1 The quantity recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Purchaser on delivery, unless the Purchaser can provide conclusive evidence to the contrary.

6.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Purchaser gives written notice to the Company of the non-delivery within 7-calander days of the date when the Goods would in the ordinary course of events have been received.

6.3 Any liability accepted by the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods. Liability specifically excludes consequential loss, special damages or other indirect loss, however arising.

6.4 The Company shall not be liable for any delay in delivery caused by the unavailability of the Purchaser at the delivery address or suspension or cancellation of transport services beyond the control of the Company or the performance of the Purchaser's designated carrier.

## 7 PAYMENT

7.1 Payment of the price for the Goods is due in the currency specified on the invoice and is to be made to the Company bank account shown on the invoice or advised on a case-by-case basis. The exchange rate to be applied will be on the date the invoice is raised. Unless agreed in writing, payment by overseas (i.e., non-UK based) customers is to be by bank transfer or credit card and will be subject to an administrative charge.

7.2 Unless credit terms have been negotiated and agreed in writing with the Company, payment shall be made in advance of despatch of the Goods (Proforma invoice).

7.3 At the sole discretion of the Company and subject to satisfactory credit vetting of the Purchaser, credit terms may be offered. Where credit is offered, payment terms of the price and VAT and any other applicable costs shall be due within 30-days of the date of the invoice supplied by the Company, unless otherwise agreed in writing.

7.4 No payment shall be deemed to have been received by the Company until funds have been received by the Company and cleared.

7.5 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

7.6 The Purchaser shall make payments in full due under the Contract without any deduction by way of set-off, counterclaim, discount, and abatement or otherwise unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Purchaser.

7.7 If the Purchaser fails to pay the Company any sum due in the performance of the Contract, the Purchaser shall be liable to pay all debt collection costs and interest charges accrued. Interest will be charged at the annual rate of 4% above the base lending rate published by the Bank of England, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the UK Late Payment of Commercial Debts (Interest) Act 1998.

## 8. RISK/TITLE

8.1 The Goods are at the risk of the Purchaser from the time of delivery.

8.2 Ownership of the Goods shall not pass to the Purchaser until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

8.2.1 the Goods; and

8.2.2 all other sums which are or which become due to the Company from the Purchaser on any account.

8.3 Until ownership of the Goods has passed to the Purchaser, the Purchaser shall:

8.3.1 hold the Goods on a fiduciary basis as the Company's bailee;

8.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Company's property; or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Purchaser or notice of intention to appoint an administrator is given by the Purchaser or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Purchaser or for the granting of an administration order in respect of the Purchaser, or any proceedings are commenced relating to the insolvency or possible insolvency of the Purchaser; or

8.3.3 the Purchaser suffers or allows any execution or lien, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Purchaser, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Purchaser ceases to trade; or

8.3.4 the Purchaser encumbers or in any way charges any of the Goods.

8.4 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of the Goods has not passed from the Company.

8.5 The Purchaser grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, to recover them where the Purchaser's right to possession has terminated.

8.6 Where the Company is unable to determine that the right to possession has terminated, the Purchaser shall be deemed to have sold all goods of the kind sold by the Company to the Purchaser in the order in which they were invoiced to the Purchaser.

8.7 On termination of the Contract, howsoever caused, the Company's (but not the Purchaser's) rights contained in this Clause 8 shall remain in effect.

## 9 ASSIGNMENT

9.1 The Company may assign the Contract or any part of it to any person, firm or company.

9.2 The Purchaser shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

## 10. LIMITATION OF LIABILITY

10.1 Subject to Condition 4, Condition 5 and Condition 9 above, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser in respect of:

10.1.1 any breach of these conditions;

10.1.2 any use made or resale by the Purchaser of any of the Goods, or of any product incorporating any of the Goods; and

10.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by Section 12 of the Sale of Goods Act (1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company for:

10.3.1 death or personal injury caused by the Company's negligence; or

10.3.2 any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

10.3.3 for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3 above:

10.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract value detailed in the Order Acknowledgement issued by the Company, and;

10.4.2 the Company shall not be liable to the Purchaser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever and howsoever caused which arise out of, or in connection, with the Contract.

## 11 WARRANTY

11.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Purchaser the benefit of any warranty or guarantee given to the Company.

11.2 The Company warrants that subject to the other provisions of these conditions upon delivery, the Goods shall:

11.2.1 be of satisfactory quality within the meaning of the UK Sale of Goods Act 1979;

11.2.2 be reasonably fit for purpose;

11.3 The Company shall not be liable for a breach of warranty or Condition 11.2 above if and without limitation:

11.3.2 In respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, the Purchaser failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods.

11.3.3 the Purchaser failed to follow applicable specifications, cautions and instructions as to storage, shelf-life, installation, commissioning use or maintenance, misuse or alteration or repair of the Goods provided by the OEM or the Company.

11.3.4 the Purchaser makes any further use of the Goods after giving such notice.

11.3.5 the Purchaser modifies or repairs the Goods.

11.3.6 in respect of any defect in the Goods arising from any drawing, design or specification supplied by Purchaser;

11.3.7 the total price for the Goods has not been paid by the due date for payment.

11.4 The Purchaser shall give written notice of the defect to the Company in accordance with Condition 4.11 above if the Goods do not conform the warranty terms, the Company shall at its option repair or replace such Goods or the defective part or refund the price of such Goods at the pro rata Contract rate. The Purchaser shall return the Goods or the defective part to the Company.

11.5 If the Company complies with Clause 11.4 it shall have no further liability for a breach of a warranty or the Purchaser has not complied with Clause 11.3 in respect of such Goods. Any Goods replaced shall belong to the Company

11.6 Any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the warranty period.

11.7 In the case of any pre-owned, used, second-hand, overhauled or reconditioned Goods supplied from stock or brokerage, the Purchaser shall be entitled to the benefits of such assignable warranties or guarantees (if any) as have been given to the Company. The Company shall be under no liability at any time in respect of any defect in such Goods. All sizes, dimensions, capacities and all other information supplied given or quoted by the Company in relation to such Goods are not warranted correct by the Company and should be verified by the Purchaser.

## 12. FORCE MAJEURE

12.1 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Purchaser (without liability to the Purchaser) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including and without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

12.2 If the Force Majeure event continues for a continuous period in excess of 180 days, the Contract may be cancelled in writing by mutual consent by and between the Parties.

**13. EXPORT CONTROL**

- 13.1 Where the Goods to be supplied are for export from the United Kingdom, the provisions of this Clause 13 shall (subject to any special terms agreed in writing between the Company and Purchaser) apply, notwithstanding any other provision of these conditions.
- 13.2 The Purchaser shall be responsible for complying with any legislation or regulations covering the import of the Goods into the country of destination and for the payment of any duties. The Purchaser is responsible at their own expense for the application for license or consents required by any government or other authority and provide evidence to the Company on demand. Failure to do so shall not entitle the Purchaser to withhold or delay payment. Any additional expenses or charges incurred by the Company from such failure shall be recoverable from the Purchaser.
- 13.3 Where an export license is required, the Company will make arrangements to apply for export licenses. The Purchaser shall provide such accurate and complete information in reasonable time to enable this to be obtained prior to delivery. Goods will not be released to the Purchaser until all mandatory export requirements have been met and supporting documents have been provided to the satisfaction of the Company. The charges to be applied will be shown on the Company quotation:
- 13.4 **Legal Notice.** The Purchaser is required to comply fully with all laws and regulations concerning the purchase and sale of products. The Purchaser is required to comply with the International Traffic in Arms Regulations that control the export and import of defence-related articles and services on the United States Munitions List (ITAR) and Commerce Control List (EAR) and any contrary diversion is prohibited and will affirm that the Goods are not or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons. An End User Undertaking will be required to be completed by the Purchaser.
- 13.5 The Purchaser undertakes to implement all necessary security measures to prevent the transfer or diversion by any means whatsoever, of the Goods, services or information provided by the Company and identified as being subject to the applicable laws and regulations on export control to any person not authorised to access such Goods, services and information, by dispensation or by an export or import license granted by the competent government authorities.
- 13.6 Should it fail to meet its export control obligations, the Purchaser will be bound to compensate for any damage caused to the Company in connection with the performance of this Agreement and/or the Order or the use or operation of all or part of the Supply. Furthermore, the Purchaser undertakes to take charge of the defence of the Customer and/or its suppliers in the event of any action or legal proceedings taken by competent authorities relating to export control as well as all consequences, including fees, expenses and damages that may be incurred by them

**14. GENERAL**

- 14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 14.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, enforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Purchaser shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

14.5 The Parties to the Contract do not intend that any condition of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

14.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

14.7 No prior inconsistent course of dealing, course of performance, or usage of trade, if any, shall constitute a waiver or serve to explain or interpret these terms, conditions, or limitations.

**15. COMMUNICATIONS**

15.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

15.1.1 to the Company registered office or such changed address as shall be notified to the Purchaser by the Company; or

15.1.2 to the Purchaser's registered office of the addressee (if it is a company) or (in any other case) to any address of the Purchaser set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Purchaser.

15.2 Communications shall be deemed to have been received:

15.2.1 if sent by pre-paid first class post, two days (excluding Saturday Sundays and Bank and Public Holidays) after posting (exclusive of the day of posting); or

15.2.2 if delivered by hand, on the day of delivery; or

15.2.3 if sent by fax on a working day prior to 4.00 PM (GMT), at the time of transmission and otherwise on the next working day.

15.3 Communications addressed to the Company shall be marked for the attention of the Director.

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