

TERMS AND CONDITIONS OF PURCHASE

1. Definitions

In these conditions **“Company”** means Severn Unival Limited; **“Order”** means this purchase order duly signed on behalf of the Company; **“Supplier”** means the person, firm or company for whom the Order is addressed; **“Goods”** means the articles or things to be supplied and **“Services”** means the work to be carried out by the Supplier pursuant to the Order; **“Specification”** means any technical requirement or description applied to the Goods or Services contained or referred to in the Order; **“Delivery Address”** means the place of delivery specified in the Special Conditions; **“Completion Date”** shall mean the date specified in the Special Conditions upon which the Goods shall be delivered or the date by which the Services shall have been completed; **“Special Conditions”** shall mean any terms set out overleaf; **“Conditions”** shall mean these conditions and the Special Conditions together; **“1979 Act”** means Sale of Goods Act 1979; **“1987 Act”** means the Consumer Protection Act 1987.

2. Status of Order

Whether or not issued in response to a quotation of the Supplier, the Order shall always constitute an offer by the Company to the Supplier to purchase the Goods or Services stated therein upon the terms similarly stated and the Company shall only be bound by the Order (and shall not be bound by any earlier enquiry which shall never be such an offer) if **(i)** it is placed with the Supplier on the Company’s official order form; and **(ii)** it is accepted by the Supplier either by providing to the Company a written acceptance within 10 days of the date of the Order or commencing execution of the Order. The Conditions shall supersede all earlier communications (written or verbal) between the parties (including any standard selling conditions of the Supplier) which shall consequently be of no effect.

3. Variations

3.1. The Supplier shall not make any variations in the design, materials or method of manufacture of the goods, nor substitute other parts or fitments for any proprietary or special parts or fitments ordered by the Purchaser without written consent of the Purchaser.

3.2 The Company may unilaterally by written notice amend the Order and the Supplier shall comply with that amendment forthwith. Within 14 days of receipt of any such notice, the Supplier shall submit to the Company a statement of the consequences of such amendment and as soon as practicable the parties shall agree any necessary and reasonable adjustments to the Order reflecting those consequences.

4. Quality and Description

4.1 All Goods supplied or Services carried out shall:-

4.1.1 be of first-class quality using the best materials and workmanship and where in the case of Goods samples have been approved or provided by the Company shall be at least equal in all respects to such samples;

4.1.2 conform with the quantity and description and shall comply with the Specification and any industry norm stated in the Order;

4.1.3 be capable of any standard of performance and fit for any purpose stated in the Order.

4.2 All Goods supplied shall be free from defect whether actual or latent.

5. Inspection and Testing

5.1 Before despatching the Goods, the Supplier shall carefully inspect and test them for compliance with the Order. If requested so to do in the Special Conditions, the Supplier shall give the Company at least 7 days' notice of such tests and the Company shall be entitled to be represented thereat. The Supplier shall supply to the Company a copy (certified as true) of the results of the said tests.

5.2 The Company will be entitled to inspect and test the Goods during manufacture, processing, storage and on arrival at the Delivery Address and the Services during the course of performance. If the Company exercises this right, the Supplier shall at its own cost provide or procure the provision of all such facilities (including access to the premises of any sub-contractor of the Supplier and the availability of test samples) as the Company may reasonably require for the purpose.

5.3 If as a result of any inspection or test under sub-condition 5.1 or 5.2 above, the Company's representative reasonably considers that the Goods or Services do not comply with the Order or on completion of manufacture, processing or performance are unlikely so to do the Company shall inform the Supplier accordingly.

5.4 The Supplier shall not be relieved of any of its obligations relative to the Order by:-

5.4.1 any inspection or testing carried out;

5.4.2 any approval given to designs, drawings or samples prepared by the Supplier; and

5.4.3 any acceptance of the Goods or Services deemed to arise on any signature of the Supplier's covering delivery note made by the Company.

6. Rejection

6.1 If Goods or Services do not comply with the Order's terms or are under sub-condition 5.3 considered unlikely to do so once manufactured, processed or performed in full, the Company may without prejudice to its other rights :-

6.1.1 reject the Goods or Services in question or the entire delivery of which they form part (whereupon the same shall immediately become at the Supplier's risk) and have the Supplier credit the Company with the cost thereof immediately; and/or

6.1.2 require the Supplier without any extension to the Completion Date, promptly to replace or repair the Goods or Services in question free of all cost and at the Supplier's risk and any such replacement shall be subject to the Order's terms; and/or

6.1.3 require the Supplier to defray all the Company's additional costs, expenses and losses (whether direct or consequential) arising from such defect or non-compliance.

6.2 If within 12 months from the date of acceptance of any Goods by the ultimate user any defect appears therein which results from a failure to conform with the Order and the Company notifies the Supplier in writing thereof, the Supplier shall with all reasonable speed rectify the defect without any cost to the Company or that ultimate end user.

7. Despatch and Delivery

7.1 The Supplier shall ensure that the Goods are properly packed and secured and shall deliver the Goods to the Company at the Delivery Address in the manner specified in the Special Conditions on the Completion Date. Section 32 of the 1979 Act shall not apply.

7.2 All Goods shall be accompanied by an advice note, a copy of which shall be simultaneously despatched to the Company under separate cover. All documentation relating to the Order shall state the order number.

7.3 Subject to sub-condition 8.2, the Supplier shall be responsible for all transit and handling charges up to completion of off-loading at the Delivery Address and shall not make any charge for packages, containers or other reusable items of any description nor for the cost of their return.

7.4 All Services shall be fully performed no later than the Completion Date.

7.5 For the purposes of this Condition, time shall be of the essence.

8. Risk and Loss in Transit

8.1 Subject to sub-condition 8.2 below, risk in the Goods shall pass to the Company on the later of completion of offloading and satisfactory performance of any qualitative tests at the Delivery Address. Any Goods lost or damaged in transit or during off-loading shall be replaced by the Supplier forthwith upon notification from the Company of such loss or damage and shall be deemed not to have been delivered until so replaced. For this purpose, notification to the Supplier's carrier shall be effective notice to the Supplier.

8.2 In the case of an overseas Supplier, risk in the Goods and the obligations of the Supplier and the Company relative to transit and freight charges and insurance of the Goods shall be

determined by the applicable incoterm as referred to in Incoterms 2000 of the ICC Rules for the interpretation of trade terms and specified in the Special Conditions.

9. Force Majeure

9.1 If by reason of force majeure the Supplier shall be unable to comply with its obligations under the Order, it shall immediately inform the Company and the Company shall subject only to the terms of sub-condition 9.2 below allow the Supplier such extended period for performance of its obligations as shall in all circumstances appear to the Company to be reasonable but which shall not in any event exceed the period for which the force majeure prevails.

9.2 Should force majeure continue for:-

9.2.1 the extended period referred to in sub-condition 9.1 above; or

9.2.2 a period of 60 consecutive days; or

9.2.3 an aggregate of 60 days in any period of 180 consecutive days the Company shall be entitled without prejudice to any rights then accrued to it to cancel its Order and may at its option **(i)** return any Goods delivered up to the date of cancellation as against the Supplier's refund of any part of the price already paid; or **(ii)** retain those Goods and/or the benefit of any Services so far performed and reimburse the Supplier its reasonable costs and expenses incurred in providing those Goods or Services and no matter which option is exercised the Supplier shall bear all the costs of the Company in obtaining the Goods or as the case may be the remainder of the Goods and Services elsewhere.

9.3 For the purposes of sub-conditions 9.1 and 9.2 above, the expression "force majeure" means any event or circumstance (whether arising from natural causes, human agency or otherwise) beyond the control of the Supplier including strikes, lock-outs or other industrial action (other than in the Supplier's premises), war, riot, civil commotion, aircraft, fire, flood, earthquake, tempest or explosion.

10 Warranties and Indemnities

10.1 The Supplier warrants that the design (other than where the Company has provided a detailed design for the Goods), construction and quality of the Goods and Services will comply in all respects with any statute, statutory rule or order or regulation at the time when the Goods are delivered or the Services rendered and that their sale or use by the Company will not give rise to any infringement or alleged infringement of any British or Foreign patent, trade mark, trade name, registered design, design or other proprietary right.

10.2 Without prejudice to the terms of any warranty given by the Supplier in these Conditions, all warranties and service guarantees attaching to the Goods or Services shall not only be for the benefit of and enforceable by the Company but also for the benefit of and enforceable by the Company's customers and for users of the Goods and/or Services.

10.3 The Supplier undertakes to indemnify the Company against all loss, damage, liability, cost, expense or claim (including claims made by third parties under the 1987 Act) which the Company may suffer or incur by reason of any breach of the Order's terms or the conditions by the Supplier.

11. Title

Without prejudice to any right of rejection which may accrue to the Company under the Order, title to the Goods or to any goods made available to the Company in the course of the Supplier's performance of the Services shall pass to the Company on the earlier of delivery and the Completion Date (whether or not fully manufactured or processed at that time).

12. Price, Payment and Continuity of Supply

12.1 The Price for the Goods or Services shall be as stated in the Special Conditions and shall be a fixed price exclusive of any Value Added or other Tax which the Supplier may be obliged by law to levy and subject only to variation pursuant to Condition 3.

12.2 Payment of the price shall be made after a minimum of 60 days following the date of invoice or delivery whichever shall be the later PROVIDED ALWAYS that the Company shall be under no obligation to pay for Goods or Services which do not comply with the Order. The Company shall be entitled to off-set against any payment to be made by it any sum then either owed to it by the Supplier or the subject of any bona fide claim made by it against the Supplier.

12.3 The Supplier undertakes to accept further purchase orders from the Company relative to similar Goods and/or Services at prices and delivery lead times no less favourable to the Company than those agreed having regard to the then prevailing economic circumstances.

13. Supplier's Personnel: Health and Safety

13.1 The Supplier shall ensure that its employees, sub-contractors and agents comply with **(i)** all the Company's procedures relating to discipline, fire, health, safety and security whilst on the Company's premises; and **(ii)** all statutory provisions, regulations, orders and by-laws of any Government or Local Authority relating to the provision of the Goods and Services.

13.2 The Supplier shall make available to the Company adequate information as to the use for which the Goods have been designed and tested and any conditions (including the degree of maintenance) necessary to ensure that when put to that use the Goods will be safe, free from hazard and without risk to health for employees or customers of the Company.

14. Insurance

14.1 When the Supplier undertakes any work relative to the Goods or the Services on the premises of the Company or any third party, the Supplier shall insure in an amount not less than

the greater of the amount specified in the Special Conditions and £10m per event against all losses, claims, demands, proceedings, costs, charges and expenses for injury (including death) or damage to any person or property which result from execution of the Order.

14.2 The insurance will be effected with an insurer which at the Company's option shall be subject to its approval and the Supplier shall, if requested so to do by the Company, ensure that either the policy is effected in joint names of the Company and the Supplier or the beneficial interest of the Company is noted on the policy. The Supplier will whenever requested by the Company produce to the Company a copy of the policy and the receipt for payment of the current premium and will advise the Company forthwith of any act or omission which may lead to the cancellation or non-renewal of the insurance.

14.3 The Supplier shall procure that any sub-contractor effects insurance similar (but of no lesser amount) to that required of the Supplier by sub-conditions 14.1 and 14.2 above.

14.4 Should the Supplier or any sub-contractor effect insurance pursuant to this Condition in excess of £10m as aforesaid, then the Company shall be entitled to the benefit of all that insured sum.

14.5 In the event that the Supplier fails to comply with this Condition, the Company may, at its option, provide such insurance and the Supplier shall be obligated promptly to reimburse the Company with the relevant premiums.

15. Termination and Cancellation

15.1 Without prejudice to any other right of termination granted to the Company under the Conditions or the general law, the Company shall be entitled to terminate the Order and any other purchase order placed by it with the Supplier if the Supplier compounds with its creditors, executes an assignment for the benefit of its creditors, has a bankruptcy order made against it or being a company enters into voluntary or compulsory liquidation or has presented against it a petition for its winding up or has an administrator or administrative receiver or manager appointed over all or part of its assets or has presented against it an application for an appointment of such an administrator or takes or suffers any similar action in consequence or indebtedness or becomes insolvent or commits a breach of any of its obligations under the Order or any other contract between the Supplier and the Company or if the Company reasonably believes any of the said events is likely to occur.

15.2 The Order may be cancelled by the Company at any time in whole or in part by delivery to the Supplier of a notice of cancellation. In the event of such notice being given, the Supplier shall stop work forthwith and comply with any directions given by the Company with regard to the Goods or Services, title to which shall immediately vest in the Company. No earlier than 2 months after the date of the cancellation notice, the Company shall (taking into account the payments already made) pay a fair and reasonable price for all work done and the materials purchased up to the time of cancellation and shall reimburse the Supplier the cost of settling any

claims for necessary termination of subcontracts justifiably committed in respect of the terminated Order or part thereof provided that the Supplier has included in those sub-contracts a termination for convenience clause in substantially the same terms as this sub condition 15.2. Such payments, together with any sums previously paid to the Supplier under the Order, shall be the limit of the Company's liability relative to such cancellation and shall not in any event exceed the total price of the Goods or Services under the Order.

15.3 Any termination or cancellation of the Order shall not prejudice any rights or remedies which may have already accrued to either party.

16. Free Issue Material

16.1 All data, tools, patterns, materials and other equipment loaned by the Company to the Supplier for use in connection with the Order or manufactured by the Supplier at the Company's expense in connection with the Order shall be and will remain at all times the property of the Company, shall be surrendered to the Company upon demand in good and serviceable condition and shall be used by the Supplier solely for the purpose of completing the Order. Such items shall be at the risk of the Supplier and insured by the Supplier at its own expense. The Company does not warrant the adequacy of any tooling, data, patterns, material and other equipment furnished by it nor shall it accept liability for any such as are received by the Supplier in a damaged state under or in connection with the Order unless such damage is notified to the Company within 5 days of receipt by the Supplier of the same.

16.2 All scrap arising from material and other items free issued by the Company shall remain the property of the Company and must be disposed of by the Supplier in accordance with the Company's wishes (if made known) and all applicable laws and regulations and the proceeds of any such disposal must be credited to the Company.

17. Confidentiality

The Order and the subject matter thereof shall be treated as confidential by the Supplier and any sub-contractor of the Supplier shall be similarly bound.

18. General

18.1 The Supplier shall not be entitled to assign or sub-contract the Order without the prior written consent of the Company. Any permitted assignment or sub-contract shall not relieve the Supplier of its obligations under the Order.

18.2 Any waiver by either party of a breach of any provision of the Order shall not be considered as a waiver of any subsequent breach of the same or any other provision.

18.3 Any failure to or delay in enforcing any provision of the Order by either party shall not be construed as a waiver by that party of the right afforded to it by that provision.

18.4 Any Special Conditions shall prevail in the event of a conflict with these Conditions.

18.5 Should any term of the Order be found to be unenforceable or void then that term shall be severed from the remainder of the Order's terms which shall continue in full force and effect.

18.6 Any notice required by the Order shall be duly given if delivered to the registered office of the recipient being a company or otherwise to its address set out on the Order and delivery shall be deemed to occur at the time of delivery if effected by hand 24 hours after being posted properly addressed first-class postage pre-paid if effected by post and notices sent by either facsimile or email shall be deemed to have been received on the next working day following receipt and on receipt of the sender's machine of a report confirming effective transmission if effected by facsimile or email.

18.7 Conditions 6, 10, 12.3, 15.2, 16, 17, 18.5, 18.9 and 18.10 shall survive any termination of the Order.

18.8 The headings used in these Conditions shall be for convenience only and shall not effect the construction or interpretation of the same.

18.9 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

18.10 The Order shall be governed by the laws of England.