

## **MEAD ENGINEERING SERVICES LIMITED**

### Conditions of Sale

Goods sold under these conditions are subject to retention of title

#### 1. DEFINITIONS.

In these conditions, the "Company" means Mead Engineering Services Limited.

The "Buyer" means any company, firm, organisation or individual or agent thereof to whom the company's quotation, acknowledgement or order or invoice is addressed.

The "Goods" means the products (including any parts or accessories), materials and/or services to be supplied by the Company.

#### 2. ACCEPTABILITY OF CONDITIONS.

The Company concludes contracts for the supply of goods subject only to these conditions. The Buyer accepts that these conditions shall govern the relationship between himself and the Company to the exclusion of any other terms including without limitation, conditions and warranties written or orally expressed or by implied user if contained in any of the Buyer's documents which purport to provide that the Buyer's own Terms shall prevail. No variation or qualifications of these Conditions or of any quotation or contract arising between the parties hereto shall be valid unless agreed in writing to the Secretary, or a Director of the Company, or a person duly authorised by the Company's Board of Directors.

#### 3. QUOTATIONS.

The Company's quotations are given without commitment and no contract between the Company and the Buyer shall arise unless and until the Company has accepted in writing the Buyer's order placed on the Company's quotation form, except that it shall be deemed to have been accepted by the Company if not expressly rejected in writing to the Buyer within ten days of the receipt of the order,

#### 4. REPRESENTATIONS.

No employee of the Company other than the Secretary, a Director of the Company, or a person duly authorised by the Board of Directors is authorised to make any statement, warranty or representation as to the goods or services being provided. The Buyer therefore shall not be entitled to rely or seek to rely upon any statement, warranty or representation made by an employee or agent of the Company other than from a duly authorised person

#### 5. PRICES.

(i) Prices contained in a quotation, price list, catalogue or similar matter shall be based upon current costs ruling at the date thereof and are for guidance only, the contract price shall be the price current at the date of delivery of the goods and/or when services are performed as the case may be.

(ii) Where firm prices are agreed these will remain firm provided that full information permitting manufacture to proceed is received by the Company promptly after receipt of the order, and further provided that the Buyer takes delivery of the order when ready. If delivery of the order or any part thereof is delayed at the Buyer's request or through the Buyer's failure to provide the full information mentioned above the Company reserves the right to amend the price of the undelivered portion, to that prevailing at the date at which delivery is made.

(iii) When a quotation is given dependent on information supplied by the Buyer, the Buyer will be responsible for the accuracy, of the information given, and for the supply of all relevant particulars. Any increased costs incurred either during or after manufacture resulting from any inaccuracy or omission shall be paid promptly and independently of the main contract price.

(iv) Unless otherwise stated prices do not include carriage, special documentation or VAT which will be chargeable at the date of despatch and or performance of services as the case may be.

(v) The Company reserve the right to impose a minimum charge which will be applied to all orders received and to vary that charge from time to time. Details of this charge are available from the Company on request.

## 6. DESPATCH AND DELIVERY.

(i) Delivery shall be deemed to occur and the risk of loss or damage of any kind in the Goods shall pass to the Buyer either on their collection by or behalf of the Buyer, or by a carrier for despatch by the Buyer (whether or not such a carrier be the Buyer's or Company's agent or servant), on the fourteenth day from the date of notice given by the Company that the goods are ready for collection or despatch.

(ii) In the event that the Company shall at the specific request of the Buyer store the goods or arrange for the Goods to be despatched or dealt with otherwise than by collection by the Buyer, then the Buyer shall pay to the Company any reasonable charges made in the Company's absolute discretion for the provision or procurement of such services. Any such services provided by the Company shall be performed subject to these conditions, In the event that such services are to be provided by a carrier or other third party then the Company shall in arranging for the provision of the same act only as the agent of the Buyer, and the Buyer shall indemnify the Company against any cost, charge, liability or expense (including demurrage) thereby incurred by the Company.

(iii) The Buyer shall carefully examine the goods on receipt of the same and shall by written notice to be received by the Company within fourteen days of the receipt of the Goods notify the Company of any short delivery or any defects reasonably discoverable on careful examination. In the absence of receipt of such notice the Company shall be discharged from all liability in respect of such defects or short or over delivery.

(iv) If the Buyer neglects to serve notice under sub clause (iii) of any over delivery then the Company may at its option either repossess the excess goods or invoice them and be paid forthwith by the Buyer for the excess Goods at the price ruling at the date of delivery.

(v) Goods may not be returned to the Company for any reason whatsoever without the consent of the Company in writing. When Goods are authorised to be returned the Buyer is responsible for all the costs incurred in returning them. The Company will make a charge for handling and restocking Goods returned and. credit will not be given for Goods returned without prior authorisation from the Company.

## 7. TIME FOR DELIVERY

(i) The Company shall use reasonable commercial endeavours to deliver the Goods and perform services in accordance with any time stated in the contract, but the time of delivery or performance shall not be of the essence to the contract. Any such times are stated by way of information only and in the event of failure to despatch or deliver or perform within such times for any cause whether within or outside the Company's reasonable control the same will not be a breach of repudiation of the contract and the Company shall not be liable for any loss or damage suffered by the Buyer as a result of such delay.

(ii) If the contract does not otherwise provide the Company shall be entitled to deliver Goods by single delivery or by installments at its option.

(iii) If the contract provides for delivery by installments by the Company or the Company so elects, each installment shall be deemed to be the subject of a separate contract on these conditions and without prejudice to sub Clause (i) hereof non delivery or delay in delivery shall not affect the balance of the contract nor entitle the Buyer to terminate the same.

(iv) In the event that the goods shall not have been collected by or on behalf of the Buyer or by a carrier for despatch to the Buyer within fourteen days of the Company's written notice pursuant to Clause 6(i) hereof that the Company may at any time hereafter send to the Buyer a further notice notifying the Buyer of the Company's intention to sell the same after the expiration of a period of not less than seven days from the date of the notice and any such sale by the Company may be on a forced sale basis. The Buyer shall be liable for the Company's charges and expenses for the sale and for the storage of the goods (which shall be at the risk of the Buyer) pending the sale hereunder or delivery to the Buyer.

## 8. PERFORMANCE PREVENTED OR HINDERED

The Company shall not be liable for any delay or failure in carrying out its obligations which is caused wholly or partly by reason of act of God, delay in transportation, labour disputes, fire, flood, war (which term includes any terrorist activity), accident, Government action, inability to obtain adequate materials,

labour, manufacturing equipment or energy, or any other cause beyond the Company's control or that of its servants or agents, and if the delay or failure had continued for a period of three months, then either party may give notice in writing to the other terminating the contract and on such termination the Company shall refund to the Buyer the price of the Goods or any part thereof after deduction of any amount due to the Company including any amount under Clause 19 hereof.

## 9. PAYMENT

(i) Unless expressly agreed in writing payment shall be made in sterling without any deduction or deferment on account of any disputes or cross claims whatsoever to arrive at the Company's offices on or before the last day of the month following the month in which the invoice for the goods is dated.

(ii) Where full payment is not received by the due date interest shall then accrue on the sum outstanding at the rate of 3% per annum above the base rate of Natwest Bank plc (as varied from time to time) calculated on a daily basis, but without prejudice to the Company's rights to receive payment on the due dates.

(iii) Time for payment shall be of the essence and in the event of delay or default in any payment for more than seven days the Company shall be entitled to suspend deliveries and/or treat the contract as repudiated and/or re-sell any of the Goods in its possession and be indemnified by the Buyer for any loss thereby incurred.

(iv) The Buyer shall pay for any samples, sale or return, loan or demonstration goods and/or materials including drawings, plans, specifications, etc., not returned within one month from the date of dispatch to the Buyer unless a different period for the return of the goods and/or materials is agreed between the Company and the Buyer.

(v) In the absence of satisfactory references or in the case of default in complying with the terms of payment under sub-clause (i) above the Company shall be entitled to render pro-forma invoices based on its current prices to be paid by the Buyer beneficially and the Buyer shall pay the Company on demand any difference between such prices and the prices current at the date of delivery.

(vi) If the Company incurs costs of whatever nature in collecting monies due to it from the Buyer, the Buyer shall pay to the Company the full amount of such costs.

## 10. PROPERTY IN GOODS

(i) The Company shall retain absolute ownership of the property in the Goods which shall not pass to the Buyer and the Buyer shall keep and retain the Goods as bailee for and on behalf of the Company and not deliver up the Goods to the Company at the Company's request until the Company has received full payment of the price of the Goods and full payment of any other sums whatsoever which are outstanding from the Buyer to the Company, whether or not due and owing. Until such time the Buyer shall insure the Goods against the usual risks with an insurance office of repute, shall store separately the goods or in some other way ensure that the goods are readily identifiable as the property of the Company, shall irrevocably authorise the representatives of the Company at any time in circumstances where the provisions of Clause 19 may apply to enter upon the Buyer's premises where the Goods are or are thought by the Company to be stored for the purpose of repossessing the Goods and shall keep and retain the Goods free from any charge, lien or other encumbrance thereon.

(ii) Provided always that no circumstances have arisen where the provisions of Clause 19 may apply, the Buyer shall be entitled to offer for sale and sell the Goods in the ordinary course of business as principal and not as agent at the best obtainable price and upon such sale the Company shall be legally entitled to the proceeds of sale and the Buyer shall pay such proceeds at sale into a separate account or otherwise ensure that all such proceeds of sale are kept by or on behalf of the Buyer in separate and identifiable form. In particular but without prejudice to the generality of the foregoing the Buyer shall not pay the proceeds of sale into any bank account which is overdrawn. Further forthwith upon receipt of the proceeds of sale the buyer shall pay to the Company any of the aforesaid sums outstanding to the Company and shall not use or deal with the proceeds of the sale in any way whatsoever until such sums have been paid. If the Buyer is in breach of sub-clause (i) hereof this shall not affect the Company's rights under this sub Clause.

(iii) If the Buyer incorporates any Goods within other equipment or products, provided that the Goods remain a readily identifiable and removable part of such other equipment or products, the provisions of sub Clause (ii) hereof shall apply.

(iv) If the provisions of sub Clause (iii) hereof apply the Buyer shall store separately the other equipment or products incorporating the Goods and shall notify the Company of the precise location and provision thereof and the Company shall be legally and beneficially entitled to the property in such other equipment or products. The provisions of sub Clause (ii) hereof shall apply mutatis mutandis in respect of such other equipment or products owned by the Company.

(v) If the buyer incorporates or mixes the Goods with other equipment or products in such a way that the Goods are not readily identifiable and removable that part of the finished product the Buyer shall store separately the finished product and shall notify the Company of the precise location and position thereof and the Company shall be legally and beneficially entitled to the property in such finished products. The provisions at sub Clause (i) and (ii) shall apply mutatis mutandis in respect of such finished product owned by the Company.

(vi) The Company shall be entitled to exercise a general lien or right of retention on all goods or any parts thereof in the Company's possession which are the Buyer's property for any sums whatsoever due to the Company and pursuant to such lien or right the Company shall be entitled without notice to the Buyer to sell all or any part of such goods or part thereof privately or by auction or otherwise and to keep the proceeds of such sale in diminution of such sums and of all costs and expenses incurred by the Company in effecting the said sales.

## 11. QUALITY, CONDITION AND DESCRIPTION OF GOODS AND SERVICES

(i) The Company warrants that products, parts or materials manufactured by it will be of good materials and workmanship and that reasonable care will be employed in assembling or incorporating items not manufactured by it and in performing services so that upon the Buyer giving written notice to the Company that Goods have not been supplied or services not performed as aforesaid, if the same be established and, provided the Buyer has not tampered with the goods, the Company will, at its own expense, at its option, replace or repair such defective goods or remedy such defaults in service, except that the Company shall not reimburse the Buyer's transportation costs in respect of such replacement, repair or remedial service.

(ii) The same term shall apply mutatis mutandis in respect at such replacement, repair or remedial service.

(iii) The above warranty shall apply in respect of matters whereof the Buyer gives written notice within twelve months of delivery or six months from installation (whichever in the shorter period) or within twelve months of performance or replacement, repair or remedial services respectively, after which any claim in respect thereof shall be absolutely barred.

(iv) Such replacement, repair or remedial service will be the absolute limit of the Company's liability, and the Company will not be liable in any circumstances whatsoever for loss or damage of any kind suffered by the Buyer or by any third party howsoever caused unless the same shall relate to personal injury or death and only then if the same shall arise out of the Company's negligence, save as aforesaid the Company shall be under no liability whatsoever in regard to goods or services or replacement, repair or remedial services whether manufacture or performance be by itself or of any other persons and any condition or warranty which might otherwise be implied or incorporated by the contract or by reason of Statute or Common Law is hereby excluded.

(v) Without prejudice to the foregoing, if called upon to do so by the buyer in writing the Company shall use its best endeavours to assign to the Buyer the benefits of any warranty, guarantee, indemnity, claim, privilege or other rights which the Company may have in regard to manufacturers or suppliers at any goods not manufactured by the Company in relation to the quality, condition or description of such goods.

## 12. OPERATING INSTRUCTIONS



The Buyer undertakes that all necessary steps will be taken to ensure that the Goods will be safe and without risk to health when properly used in accordance with Clause 6(8) at the Health and Safety at Work Etc. Act 1974.

### 13. DRAWINGS, SPECIFICATION ETC.

(i) All descriptions, drawings, illustrations, particulars of weights and measures rating standard statements or details or specifications or other descriptive matter, whether or not contained in the contract document are approximate only. The goods will be in accordance with the Company's specification and at the time of manufacture and any earlier specifications, drawings, descriptions, illustrations, particulars as to weights and measures rating standard statements or details shall not form part of the description of the parts or services supplied or to be supplied and the Company shall not be in any liability in respect thereof.

(ii) Where Goods are supplied by the Company to the Buyer in accordance with the Buyer's design or specification or where the Company shall design items not within the standard range of products at the Buyer's request, no warranty is given or implied as to the suitability of such goods or items unless the Buyer has made the Company aware of the particular purpose for which the Buyer is proposing to use the goods or items, in which case Clause 11 shall apply. The Company shall be entitled to charge a fee for any research or design undertaken in connection with the supply at goods not within their standard range of products.

### 14. INSPECTION AND TESTING

The Company undertakes inspection of all Goods prior to delivery and where practical submits to standard tests at the Company's premises. Special tests or standard tests in the presence at the Buyer or his representative may be undertaken by the Company at the request and expense of the Buyer but unless otherwise agreed such tests shall be conducted at the Company's premises.

### 15. INDUSTRIAL PROPERTY RIGHTS

(i) All intellectual property rights subsisting in or relating to any calculations, data specifications, designs, drawings, papers, documents, procedures techniques, acceptance maintenance and other tests, special and recommended parts and other equipment, and any other material and information whatsoever given to the Buyer by the Company in connection with the supply of the Goods by the Company to the Buyer or otherwise are vested in the Company. The Buyer will not, whether by itself, its officers, servants, agents, or any of them or otherwise howsoever copy or reproduce any such items or material in whole or in part, nor will it disclose any such information in whole or in part to any third party. Further the Company shall be entitled to the ownership of all intellectual property rights subsisting in or relating to any calculations, data specifications, designs, drawings, papers, documents, or other items, material or information conceived, originated, developed or produced by the Company for the Buyer pursuant to the contract for the supply of Goods and/or services.

(ii) The Buyer shall not at any time or for any reason whatsoever disclose or permit to be disclosed to any person or persons whatsoever, or otherwise make use of or permit to be made use of any trade secrets or other confidential information relating to the equipment, technology, business affairs or finances of the Company or any associated company or organisation of the Company, or relating to the Company's agents, distributors, licensees or other customers, or in respect of any of their affairs, dealings or transactions.

(iii) The Buyer shall not seek to apply or apply to register in its own name any of the Company's intellectual property rights, and in particular those subsisting in or relating to the Goods or part thereof, nor shall it represent in any way that it has any right or title to the ownership of any such intellectual property rights, nor shall it do any act or thing which might be contrary to the interests or rights of the Company in such rights, and in particular challenge the ownership or validity of such rights.

(iv) The Buyer undertakes and agrees that the use of any of its calculations, data, specifications, designs, drawings, papers, documents, procedures, techniques, maintenance and other tests, special and recommended parts, and other equipment, and other material and information by the company when

manufacturing and supplying the Goods will not infringe any intellectual property of a third party and shall indemnify the Company in respect of any such infringement.

(v) The provisions of Clause 15 shall survive the expiry or termination of any contract for whatsoever reason.

#### 16. PATENTS

The sale by the Company of the Goods shall not convey to the Buyer any license or right to use any inventions, letters, patent, copyright, registered designs or trademarks which may be embodied in the Goods.

#### 17. TRADE MARKS.

The Buyer agrees not to alter or remove any trade mark of the Company which has been applied to the Goods, nor to apply to the Goods any other trade mark, nor before any resale of the Goods to make any alteration to their state, condition, get-up or packing.

#### 18. INDEMNITY

The Buyer shall indemnify the Company against all actions, claims and demands by Third Parties whether in tort or otherwise, howsoever arising directly or indirectly in connection with the use functioning or state of the Goods or in connection with the performance of services.

#### 19. LIMITATION

The Company shall in no circumstances be liable

(i) For any consequential or special loss or damage or claim by the Buyer including without limitation delay, detention, loss of production, loss of profit, loss of time, charges or liability to third parties.

(ii) For any loss or damage in excess of the contract price (or in the case of a defect in a part only then the cost of the manufacture of such part) and (this/these) limitation(s) will apply (even in the case of breach of a fundamental term or repudiation by the Company and) even if further performance of the contract is frustrated.

(iii) Save where the Buyer has given written notice to the Company that it is not affecting insurance (thus enabling the Company to effect its own insurance and to reflect the cost thereof in the current price) for any loss or damage covered by insurance or which would ordinarily be covered by insurance.

#### 20. SUB-CONTRACTING

The Company shall be entitled to sub-contract all or any of its obligations hereunder as it may deem fit at its own discretion.

#### 21. DETERMINATION

If the Buyer shall make default in or commit breach of the contract or of any of his obligations to the Company or if any distress or execution shall be levied upon the Buyer's property or assets, or if the Buyer shall make or offer to make any arrangement of composition with creditors or commit any act of bankruptcy or insolvency, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Buyer is a limited company and any resolution or petition to wind up such company's business (other than for purposes of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof, shall be appointed, the Company shall have the right forthwith to determine any contract then subsisting and upon written notice of such determination being given to the Buyer any subsisting contracts shall be deemed to have been determined and the Company shall be entitled to recover from the Buyer all losses thereby arising including but not limited to those under Clause 22 of these conditions or otherwise.

#### 22. PARTIAL COMPLETION.

In the case of partial completion of an order by reason of any of the events referred to in Clauses 8 or 21 of these conditions the Company shall be entitled to quantum meruit in respect of all work done by it including labour costs and materials and any charges or expenses which the Company is committed to

pay to sub-contractors or third-parties without prejudice to its right should non-completion be occasioned by the Buyer.

#### 23. NOTICES

Unless otherwise provided in writing any written communication or notice under the contract shall be made or given by sending the same by ordinary prepaid first class letter post, in the case of the Company to its current address and in the case of the Buyer to its last known address, and if so sent shall be deemed to be made or given two days after the date when posted.

#### 24. WAIVER

Any failure by the Company to enforce any or all of these conditions shall not be constituted as waiver of any of the Company's rights.

#### 25. LAW AND INTERPRETATION

The Contract shall be governed by English Law and the Buyer shall submit to the non exclusive jurisdiction of the English Courts, If any at these conditions or any part thereof is rendered void or unenforceable by any legislation to which is subject, or by any rule of law, it shall be void or unenforceable to that extent and no further.

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