

# STS Defence Limited

## Conditions of Purchase

### 1 DEFINITIONS

In these terms and conditions ('Conditions') 'the Company' means the Company stated in the Order, 'the Seller' means the person, firm, company or other body to whom the Order is addressed, 'the Order' means the Company's purchase order, 'the Goods' means the goods referred to in the Order.

### 2 CONDITIONS

- (a) These Conditions shall form the basis of the contract between the Company and the Seller for the Goods ("Contract") and supersede any previously agreed terms.
- (b) Notwithstanding anything to the contrary in the Seller's quotation, standard conditions of sale, specification or other document these Conditions shall apply except if otherwise agreed in writing by an authorised officer of the Company.
- (c) Acceptance of the Order by the Seller shall take place when it is expressly accepted or by any other conduct of the Seller which is consistent with acceptance of the Order.
- (d) An Order may be withdrawn or amended by the Company at any time before acceptance by the Seller.

### 3 ACCEPTANCE

- (a) The Company shall not be bound to accept or make payment for the Goods unless the same comply in all respects with the Order and these Conditions. The Goods shall be subject to inspection and approval by the Company and if rejected by the Company within a reasonable time will be held by the Company at the Seller's risk and cost and will be returnable to the Seller at the Seller's expense.
- (b) The Company shall only accept responsibility for such quantities of Goods as are specifically set out in the Order.
- (c) Acceptance of the Goods by the Company or payment for such Goods shall not prejudice the Company's right of rejection of all Goods found to be defective. Furthermore the Company reserves the right to claim from the Seller the cost of labour and materials incurred upon making good such defects without prejudice to and in addition to all other rights which the Company may have in respect of such defective Goods.

### 4 NON-CONFORMING PRODUCT

Any item or documentation that does not conform to the Order and Contract shall be notified to the Company. A concession to deliver may be considered at the Company's sole discretion.

### 5 TIME FOR DELIVERY

- (a) Delivery shall be at such times and such manner as the Company shall stipulate in the Order or otherwise and time shall be of the essence.
- (b) If delivery of the Goods is not made by the specified time then the Company may at its option:
  - (i) cancel the Order or part thereof; and/or
  - (ii) treat the contract as wholly repudiated by the same; and/or
  - (iii) claim all direct, indirect and consequential costs and expenses incurred by the Company due to such delay.

### 6 PRICE OF THE GOODS

- (a) The price of the Goods shall be as stated in the Order and, unless otherwise stated, shall be inclusive of all costs except any applicable value added tax (which shall be payable by the Company subject to receipt of a VAT invoice).
- (b) No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Company.

### 7 TERMS OF PAYMENT

- (a) The Seller shall be entitled to invoice the Company on or at any time after acceptance of the Goods, and each invoice shall quote the Order number.
- (b) Unless otherwise stated in the Order, the Company shall pay a validly submitted invoice within 90 days from the date of receipt of the invoice.
- (c) Where sums due under the Contract are not paid in full by the due date the Company shall pay on the sum overdue interest (before and after judgment) on a daily basis until payment in full at the rate of two per cent per annum above the base rate of the Bank of England. The Seller acknowledges that this

is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

- (d) The Company shall be entitled to set off against the price any sums owed to the Company by the Seller.

### 8 RISK AND PROPERTY

- (a) Risk in the Goods shall pass to the Company upon completion of delivery to the Company in accordance with the Contract.
- (b) Title in the Goods shall pass upon the earlier of delivery of the Goods or payment by the Company.
- (c) The passing of title and risk is without prejudice to any right of rejection which may be exercisable by the Company.

### 9 WARRANTY

- (a) The Seller warrants to the Company that the Goods shall on delivery and for 12 months or the period stated in the Order:
  - (i) will be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
  - (ii) will be fit for any purpose held out by the Seller or made known to the Seller in writing at the time the Order is placed;
  - (iii) will be free from defects in design, material and workmanship;
  - (iv) will conform with any relevant specification, description or sample;
  - (v) will comply with all applicable laws, standards and best practice;
  - (vi) will not infringe any third party's patents, trademarks, copyright or intellectual property rights.
- (b) The Seller warrants that it understands the Company's business and needs and has completed all necessary due diligence in relation to the Order.
- (c) The Company's rights under these Conditions are in addition to and do not exclude or modify rights under the Sale of Goods Act 1979.
- (d) Without prejudice to any other remedy, if any Goods are not supplied or performed in accordance with the Contract, then the Company shall be entitled at its discretion:
  - (i) to require the Seller to repair the Goods or to supply replacement Goods in accordance with the Contract within 7 days; or
  - (ii) at the Company's sole option, and whether or not the Company has previously required the Seller to repair the Goods or to supply any replacement Goods, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the price which has been paid.

### 10 LIABILITY

- (a) The Seller shall indemnify the Company in full against all liability, direct, indirect and consequential loss, damages, costs and expenses (including legal expenses) against or incurred or paid by the Company as a result of or in relation to:
  - (i) breach of any warranty given by the Seller in relation to the Goods;
  - (ii) any claim that the Goods infringe, or their importation, use or resale infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by the Company;
  - (iii) as a result of any defect in the Goods;
  - (iv) in respect of any claim or claims which may be brought against the Company under Part 1 of the Consumer Protection Act 1987 by virtue of any defect in the Goods; or
  - (v) any breach of the Contract.

### 11 HEALTH AND SAFETY

The Seller warrants to the Company that the Seller has complied in all respects with The Health & Safety at Work Act 1974 and all statutory instruments pursuant thereto and other relevant legislation and shall indemnify the Company against all loss arising by or in respect or in breach or non-compliance therewith.

### 12 TERMINATION

- (a) The Company has the right to terminate the Contract by notice taking immediate effect at any

time after any appointment of a receiver, liquidator or equivalent for the Seller's business or the Company reasonably believes that the Seller is in financial trouble.

- (b) If the Seller is in breach of contract or becomes unable to pay his debts day by day as they become due, the Buyer may terminate the contract and may elect to keep all or some of the Goods already delivered or to take all or some of the Goods still being manufactured or otherwise undelivered.
- (c) If the Company terminates the Contract the Seller shall return to the Company all payments already made and if the Company rejects any of the Goods, the Seller shall return to the Company all payments already made for the rejected Goods. Where upon termination the Company has elected to keep or take some of the Goods, the Company shall account to the Seller for them at a proportion of the contract price or at their value to the Company, whichever is the lower but otherwise no compensation shall be payable to the Seller on termination or rejection.
- (d) The rights and remedies set out in clauses 3, 6, 8 and 10 are in addition to any other rights and remedies of the Company and obligations of the Seller.
- (e) The Company without cause giving the Seller 1 (one) calendar months' notice in writing. The Company and the Seller shall agree a fair and reasonable price for all work reasonably done and materials reasonably purchased by the Seller for the purpose of carrying out work on the ORDER up to the date of such cancellation in satisfaction of all sums due to the Seller by the Company under this ORDER. The agreed price, together with any sums paid or due to the Seller under the ORDER before the effective date of termination shall not exceed the total price of the GOODS or SERVICES under the ORDER and such payment shall be the Company's sole liability in respect of the cancellation

### 13 CONFIDENTIALITY

The Order, the Contract and all tools, materials, documents and information issued by the Company in connection with the Contract are confidential and their use and disclosure must be strictly confined to the Seller himself and his employees properly engaged thereon (except in so far as confidential disclosure to sub-contractors or suppliers is agreed by the Company to be necessary) and to the purpose of the Contract. In particular the Seller shall not use the Contract for the purpose of advertisement nor shall take or allow his employees to take any photographs.

### 14 THE COMPANY'S MATERIALS

- (a) In conditions 14 and 15 "Company's Materials" means all drawings, materials, equipment, patterns, castings, tools, dies, moulds, specifications, software, codes, calculations and other items which are:
  - (i) supplied by the Company to the Seller;
  - (ii) not so supplied but used or created or developed by the Seller specifically for the purposes of the manufacture of Goods or the provision of services to the Company or its affiliates; or
  - (iii) delivered to the Company pursuant to this condition 14.
- (b) The Company's Materials, for which the Company has provided the whole or a part of the cost to enable the Seller to execute this Order, shall become and/or remain the property of the Company, shall be kept in good condition and be returned to the Company on demand at the Seller's risk (in the case of items for which the Company has provided a part only of the cost, upon payment of the remainder of such cost) and shall not be used by the Seller without the agreement in writing of the Company for any purpose other than the supply of Goods to the Company. The Seller agrees to insure and indemnify the Company against any loss or damage to such items whilst they are in the custody of the Seller and to procure that the interest of the Company is noted in any policy covering such items.
- (c) In addition, the Seller shall ensure that all such tooling is maintained in good condition and shall replace any such tooling, or part thereof, lost or damaged and shall adequately insure against loss or damage thereof.

(d) The Seller waives any lien which it might otherwise have whether at the date hereof or subsequently on any of the Company's property for work done thereon or otherwise. The paragraph shall not be construed as a waiver of any other right of recovery of any other charges that may be due to the Seller for such work.

(e) The Seller will not without the prior written authority of the Company sell, hire, use or otherwise dispose of, to or for any other person, any goods manufactured by the Seller to the Company's designs, drawings or specifications or based upon them, or any tooling designed for use in their manufacture and the Seller shall refer to the Company all enquiries received for such goods or tools.

(f) The Company shall have an option which shall be exercised by written notice to pay not more than the balance of the replacement cost for the outright ownership of any materials, samples, jigs, patterns, tooling or any other item essential to the manufacture of the Goods to a design, drawing or specification supplied by the Company. At the request and cost of the Company the Seller shall deliver any such essential item to the Company at such place and time as the Company shall stipulate. Within 30 days of receipt of the option notice the Supplier will notify the Company of the amount claimed as the said unrecovered balance and the Company will within 1 month pay the amount agreed or if it is not agreed the amount fixed by an independent Chartered Accountant acting as an expert and selected by the President for the time being of the Institute of Chartered Accountants in England and Wales.

## 15 INTELLECTUAL PROPERTY

- (a) The Company retains any and all intellectual property rights in the Company's Materials and the Company grants a non-transferable, non-exclusive, royalty free licence to the Seller to use such intellectual property rights only to the extent necessary to provide the Goods and such licence shall terminate immediately upon termination of the Contract or upon earlier return of the Company's Materials to the Company.
- (b) Pursuant to condition 14 to the extent that such intellectual property rights do not automatically vest in the Company, the Seller assigns to the Company all intellectual property rights which have been used, created or developed for the purposes of the Contract.
- (c) The Seller grants to the Company (and to the extent the Seller is not able to grant the licence itself, shall procure the grant of) a non-transferable, non-exclusive, royalty free licence (with the right to sub-licence) of such intellectual property rights to enable the Company to use and enjoy the Goods or the Services including without limitation to allow the Company freely to utilise the delivered Goods and enjoy the benefit of the Services, to allow the Goods to perform those functions which they are designed for and to repair the delivered Goods (or to have those Goods repaired) and manufacture (or have manufactured) spare parts and replacements. The Contract price includes the full licence fee.
- (d) The Seller declares that the manufacture, delivery, use and/or repair of the Goods to be supplied and of each of the parts thereof and the application of the associated functions and the performance of the Services do not infringe any industrial and intellectual property rights held by third parties and the Seller shall indemnify the Company against any loss without limit arising out of claims, liabilities, and expenses (including loss of profits) resulting from any claim or action made by third parties against the Company alleging infringement of this condition 15(d).
- (e) Where the Company is notified by a third party of an alleged infringement it shall inform the Seller forthwith of such notification. The Seller shall promptly take such steps as may be necessary to secure to the Company the rights granted in conditions 15(b) and 15(c) above. If the Seller fails to take such steps within a reasonable period of time (and not more than one month after notification) the Company shall have the right to take such action itself whereupon the Seller shall indemnify the Company without limit against any costs or liability incurred by the Company in so doing. Such action shall include litigation arrangements or compromises with any rightful

claimants and making changes in the delivered Goods without impairing the good quality and usability of the Goods as will cause them to become non-infringing.

(f) The Company shall be entitled to apply for and hold such patent or other registered protection for any Company's Material as the Company thinks fit.

## 16 INSURANCE

The Seller shall have in place contracts of insurance with reputable insurers to cover its obligations under the Contract.

## 17 COUNTERFEIT PARTS

(a) Where applicable to the Order the Seller shall only purchase parts directly from the Original Component Manufacturer (OCM)/ Original Equipment Manufacturer (OEM) or a franchised distributor. The Seller shall ensure that suspected counterfeit goods are not used in Goods delivered to the Company through the implementation of policies that include prevention, detection and risk mitigation methods to protect against the use and supply of suspected counterfeit parts.

(b) When requested by the Company, the Seller shall provide authorised supplier documentation that authenticates traceability of the parts to the applicable authorised supplier.

(c) Each delivery against an Order shall be accompanied, by a Certificate of Conformance, and if requested test report, or authorised release certificate. Each certificate shall identify and / or be traceable to: the Company's purchase order and item number, the description, drawing/part number and specification with issue status, any Company agreed deviations, batch/lot numbers. Each Certificate of Conformance shall be signed by the Supplier's quality representative. Failure to comply may result in rejection. Where documents are held by the Seller then these shall be retained as part of their document retention procedure or as specified by Contract.

## 18 CODE OF ETHICS

(a) This clause contains the code of ethics that the Seller must adhere to. The code shall apply to all suppliers and/or potential suppliers of goods and services to the Company that interface with any of the Company's employees who are in a decision-making capacity concerning the business being conducted or about to be conducted with the Seller. Compliance with this code shall ensure that all the Company's business dealings and relationships are of the highest integrity and professionalism.

(b) Sellers shall not:

- (i) put the Company's employees in a position where they are able to use their authority or position for personal gain or profit.
- (ii) offer, nor shall the Company's employees accept gifts or gratuities unless they are nominal value and do not influence the employee's decision in any way.
- (iii) offer nor shall the Company's employees seek or accept personal loans from a Seller, unless the Seller is publicly recognized as being in the business of making such loans.

(c) Association with supplier representatives at luncheons, dinners, or other business functions is helpful in establishing a relationship between the supplier and the Company. It is neither questionable nor unethical provided that the Company employee keeps themselves free of any obligation and that the employee is not put in a position where their judgement may be influenced.

(d) Sellers shall not offer, nor shall Company employees solicit gifts or gratuities for any organised functions (parties, tournaments etc.) even though the employee may not gain personally from the transaction.

(e) Any information interchanged between Company employee and the Seller concerning any business dealings (either actual or potential) between the two parties shall be kept confidential and not discussed with anyone outside the organisations of Company or the Seller. This confidentiality shall survive even if the Company no longer employs the individual or if the supplier no longer trades with the Company.

(f) If an employee of the Company, or someone in his/her family, has a financial interest in the Seller, the Seller shall advise the relevant manager in the Company's organisation that there may be a

conflict of interest. The Company shall then decide whether there is a conflict of interest and take the appropriate action.

(g) If the Seller is in doubt as to whether any action or potential action is acceptable or not, then he or she should consult with the relevant parties.

(h) Non-compliance to this condition 18 shall be considered a material breach of contract and the Company, at its discretion, shall retain the right to terminate any Contract with the Seller.

(i) The Seller shall comply with the Bribery Act 2010 and report any breach immediately to the Company.

## 19 HUMAN RIGHTS

(a) The Company supports and expects the Seller to support the principles of the United Nations Universal Declaration of Human Rights and the International Labour Organisation Declaration on fundamental Principles and Rights at Work. The Company adheres to these principles and expects the Seller to adhere to the principles as set out in ILO Declaration on Fundamental Principles and Rights at Work, its follow up - adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 and any subsequent amendments or annex.

(b) The Seller shall comply with the Modern Slavery Act 2015 and shall notify the Company immediately if it becomes aware of any breach of such legislation by it.

## 20 EXPORT COMPLIANCE

The Seller shall notify the Company in writing if any of the Goods, software or technical documentation on the Order is subject to ITAR or EAR regulations.

## 21 RIGHT OF ACCESS

This Order may be related to a Ministry of Defence contract or other Defence Contractor and may be subject to Quality Assurance activities by their respective representatives. Upon the Company providing reasonable written notice to the Seller, the Seller (and those of its sub-contractors) shall allow the Company, its customers and regulatory authorities access to inspect, audit the facilities, processes and procedures used in the manufacture of goods.

## 22 GENERAL

(a) Records shall be retained by the Seller for a minimum of six years unless otherwise specified in the Order.

(b) The Seller shall immediately notify the Company of any changes that may affect their approval status or the requirements of the Contract, and shall seek written approval for any such changes.

(c) The parties are independent and not partners, principal and agent or employer and employee. None of the parties shall have authority to make any commitments on the other party's behalf.

(d) The Seller may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Company's prior written consent.

(e) If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

(f) No failure, delay or omission by the Company in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy.

(g) The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

## 23 GOVERNING LAW

(a) The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

(b) The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).