

1. DEFINITIONS

"Contract" shall mean any contract resulting from this Order. "Order" shall mean this purchase order.

"Purchaser" shall mean Ilmor.

"Supplier" shall mean the person on whom this Order is placed.

"Goods" shall mean the supplies to be delivered under the Contract and shall be deemed to include any service(s).

"Short term" shall mean a period of less than one calendar year.

"Long term" shall mean a period greater than one calendar year.

2. APPLICATION

2.1 The following terms and conditions shall apply in respect of the Order and the Contract, and any attempted alteration or qualification by the Supplier of those terms and conditions and any other term and condition that the Supplier seeks to impose, will be inoperative and inapplicable. Unless specifically agreed in writing by the Buyer or authorised officer of the Purchaser, entry into performance of the Contract by the Supplier shall constitute conclusive evidence of the Supplier's acceptance of the following terms and conditions.

3. PURCHASE ORDERS

3.1. The Purchaser expects the Supplier to acknowledge the Order within 3 days after receipt thereof failing which the Order shall be deemed to be accepted, without reservation, by the Supplier. The Supplier may refuse to acknowledge the Order only if it contravenes the terms and conditions.

3.2. The Order period, quantity, rate and delivery schedule referred to in the Order may be modified by the Purchaser at no cost to the Purchaser providing that notice is made in writing to the Supplier.

4. PRICES

4.1. For short term Orders unless otherwise specifically stated in the Order and subject to clause 13 below all prices shall be fixed and non revisable and shall not be varied.

4.2. For long term Orders the Purchaser reserves the right to review prices after a fixed period as defined on the Order. This review will consider such elements as inflation, productivity, cost reduction and performance.

4.3. Unless specifically agreed otherwise in writing with the Purchaser, the Supplier agrees to finance all its nonrecurring costs associated with initial development of the Goods.

4.4. Unless otherwise agreed the prices shall include packing on the Purchase Order.

5. DELIVERY

5.1. Goods shall be delivered Freight and Insurance paid to the destination stated on the face of the Order, unless otherwise agreed.

- 5.2. The Supplier shall complete and deliver the Goods at the time or times specified in the Order and in this respect time shall be of the essence.
- 5.3. If all or any Goods are not delivered or completed by the time or times specified in the Order then the Purchaser shall be entitled to determine the Contract in respect of such Goods and/or in respect of any Goods already delivered or completed under the Contract. On such determination the Purchaser shall be entitled: -
- a. To return to the Supplier at the Supplier's risk and expense any of the Goods already delivered and to recover from the Supplier any money paid by the Purchaser in respect of such Goods and in respect of any work or services already completed.
 - b. To recover from the Supplier any consequential loss including (but not limited to) any additional expenditure incurred by the Purchaser in obtaining other goods, work or services in replacement of those in respect of which the contract has been determined.
 - c. To recover from the Supplier fair and reasonable costs incurred by the Purchaser, as a direct result of late delivery. The Purchaser shall charge these costs at a daily rate until delivery and acceptance of the Goods.
- 5.4. The Purchaser may at any time or times by notice in writing to the Supplier postpone the dates/s for delivery of any Goods without thereby incurring any liability and the Supplier shall deliver such Goods on the revised date/s so notified and shall not make any claim for adjustment in price or otherwise in respect of any such postponement unless otherwise agreed by the Purchaser.
- 5.5. Upon request the Supplier shall provide the Purchaser with information relating to progress in accomplishing the order either verbally, via email or in writing to the Ilmor Buyer.

6. ACCEPTANCE OF GOODS

- 6.1. Acceptance of the Item by the Purchaser shall be subject to satisfactory results of any inspection by the Purchaser to ensure compliance with the Specification. Acceptance shall be deemed to have occurred at the latest within 30 days from receipt at the Purchaser's facilities of the Item accompanied with its statement of conformity, except in the case of refusal by the Purchaser.
- 6.2. Acceptance of the Item shall be conclusive of the absence of apparent defect and compliance with the Specification but shall not be conclusive of the absence of latent defect and shall be without prejudice to the rights of the Purchaser to call on the customer support for any further defect and/or non-compliance with the Specification.
- 6.3. For the avoidance of doubt, the Supplier acknowledges that the first article inspection or any other form of similar inspection or checking or mere receipt and/or storage of the Item by the incoming department of the Purchaser, whether or not it is supported by related documentation, cannot be construed as any form of acceptance of the Item by the Purchaser.

7. WARRANTY

The Supplier warrants that all products supplied under this agreement:

- are free from defects in material or workmanship
- are free from defects in design which would unreasonably restrict the fitness and reliability of the products insofar as it is within the control of the Supplier to influence the design
- are of merchantable quality and are fit for the purpose for which they are supplied and are in

accordance with the requirements of the order

meet applicable standards so as not to restrict the sales of Goods incorporating the products throughout the world, including but not limited to standards relating to product safety. The Supplier must notify the Purchaser if the products contain substances listed in the Montreal Protocol.

7.2 Standard warranty for products shall be 12 months from receipt at Purchaser's premises, unless agreed otherwise.

8. GOODS NOT REQUIRED

8.1 Should the Purchaser decide at any time or times that it no longer requires all or part of any undelivered Goods the Purchaser shall be entitled to cancel the Contract with respect to the Goods which are not required by serving on the Supplier written notice to that effect.

8.2 The expression "cancellation" means an amendment so served and the expression "cancelled Goods" means the Goods that are not required.

8.3 Upon receipt of a cancellation the Supplier shall forthwith except as may otherwise be directed by the Purchaser.

* Stop work on the cancelled Goods and ensure that no further steps are taken to produce the cancelled Goods.

* Endeavour to realise salvage on the cancelled Goods.

8.4. The Purchaser shall incur no liability whatsoever to the Supplier in respect of any such cancellation and shall not be liable to the Supplier for any loss or damage whatsoever resulting from any such cancellation except that the Purchaser shall within a reasonable time after being requested to do so and receiving full details supporting the Supplier's claim pay to the Supplier a reasonable amount in respect of work carried out by the Supplier on the cancelled Goods prior to receipt of the cancellation and the price paid or payable by the Supplier for material and parts which prior to such receipt were properly purchased by and delivered to the Supplier for the purpose of being incorporated in the cancelled Goods (such reasonable amount being calculated after deducting the value of all salvage realised or reasonably capable of realisation in relation to the terminated Goods). In no event shall the Purchaser be liable to pay the Supplier a price in excess of that agreed for the cancelled Goods.

8.5 No such cancellation shall affect or alter the Contract with respect to any Goods or materials that are not the subject of the cancellation.

9. PRODUCT LIABILITY AND INSURANCE

9.1 The Supplier undertakes to indemnify the Purchaser against all claims, proceedings, damage, loss, expenditure, costs and liability which may be made or brought against the Purchaser or which the Purchaser may sustain or incur under the provisions of the Consumer Protection Act of 1987, as amended from time to time, or otherwise in respect of or in relation to or in connection with the Goods whether or not the Goods have been incorporated into other equipment or goods.

9.2 The Supplier shall at all times during the continuance of the Contract and thereafter maintain product liability insurance commensurate with the level of business and criticality of the Goods, in an amount not less than £1,000,000 (One Million Pounds Sterling) or its equivalent, in terms satisfactory to the Purchaser. From time to time, at the Purchasers request, the Supplier should

furnish to the Purchaser a copy of the policy and evidence of payment of the premium. A lesser sum may be agreed in writing between the Supplier and the Purchaser.

10. PACKING

- 10.1. All Goods shall be delivered suitably packaged to the destination specified on the face of the Order. All packages shall be clearly identified with Part Number and Purchase Order Number. The Supplier shall not charge the Purchaser additional costs for pallets, containers or packaging and the Purchaser shall not be responsible for storage or return of such items.

11. ADVICE NOTES

- 11.1. Where the point of delivery is other than the Purchaser's factory a complete copy of all despatch documents shall be sent to the Purchaser on the day of despatch. If UK import duty is chargeable on any Goods, the Supplier shall notify the Purchaser in sufficient time for Customs arrangements to be made such that import of items required for re-export may be made duty free.
- 11.2. Packing lists, release notes and Certificates of Conformity shall accompany delivery of the Goods. Separate documents must be included with each delivery consignment of Goods, stating clearly the description, quantity, weights, serial number, part number, specification and order numbers together with the issue numbers applicable to the manufacturing standard of the Goods, (the specification referred to being the technical requirements as stated in the Order).
- 11.3. The Supplier to provide separate advice notification of all free issue material which became scrapped during processing which will be subject to clause 5.3.

12. INVOICES

- 12.1. Invoices must state clearly the Order number and Order line item number, applicable serial, part, drawing, release and advice note numbers, descriptions, quantities and weights, VAT cost and Supplier's VAT registration number.
- 12.2. Invoices, which do not agree with this order in terms of price, quantity or weights or where no proof of delivery can be found, will be returned to the Supplier. Re-submitted invoices will be treated as new invoices in regard to payment.
- 12.3. A monthly statement of account is to be sent to the Purchaser embodying all invoices.
- 12.4. The Purchaser shall be entitled to set off against the invoice price any sums owing to the Purchaser by the Supplier.
- 12.5. The Purchaser reserves the right to offset any costs resulting from scrapped free issue material against the invoice.

13. VARIATIONS

- 13.1. The Purchaser shall have the right to vary the Contract at any time or times by notice in writing to the Supplier (including any variation/s in design and/or specification) If such variation involves an increase or decrease in the total quantity of Goods ordered or in the work to be performed by the Supplier or in cost or performance, a fair and reasonable adjustment shall be made to the Contract price and/or the time/s for delivery or performance and the Supplier shall provide all necessary facilities and information to assist the Purchaser in agreeing such adjustment/s. If the Supplier

wishes to make any claim for adjustment under this paragraph he shall deliver the same in writing to the Purchaser within 14 days after the date on which the notice is received.

- 13.2. No variation or amendments proposed by the Supplier shall be binding upon the Purchaser, unless agreed by the Purchaser, and confirmed by the Purchaser in writing, by an official Order amendment.

14. STATUTORY REQUIREMENTS

- 14.1. The Supplier shall comply with the requirements of the Health and Safety at Work Act 1974, all EC Directives, Product Directives, Harmonised European Safety Standards (including Machinery Safety Regulations) and any other relevant legislation (including without limitation those relating to the notification of precautions to be observed in relation to Goods and their handling, operation and storage). The Supplier shall ensure that full details of all such precautions shall accompany each consignment of Goods and that the Purchaser is notified of all restrictions and/or limitations as to the shelf life of Goods immediately after the Contract comes into effect.

15. SUPPLIER QUALITY ASSURANCE

- 15.1. The Supplier shall establish and maintain a quality system that covers all aspects of the Supplier in connection with the Order. The Supplier shall provide evidence of their quality management system and its processes to the Purchaser on request and demonstrate continual improvements.
- 15.2. Where required on the Purchase Order, the Supplier must comply with the Purchaser's, customer-approved special process sources.
- 15.3. The Purchaser is to be contacted (by the Supplier) in the event of non-conforming product or material. Arrangements for the approval of Supplier nonconforming product or material must be as directed by the Purchaser's Operations Manager or Quality Manager.
- 15.4. Furthermore, the Purchaser must be notified of changes in product or process definitions that were not requested by the Purchaser. Notification should describe the change or changes that have been made or are being proposed. The Purchaser reserves the right to require its approval of the product or the process change before the Supplier forwards the product. Approval shall be obtained from the Operations Manager or Quality Manager .if applicable
- 15.5. The Supplier shall provide right of access to the Purchaser, our customer and regulatory authorities to the applicable areas, at any level of the supply chain involved in the order to audit or inspect product and processes and to all applicable records
- 15.5. When the Purchaser or its customer intends to perform verification at the Supplier's premises; the Purchaser will first state the intended verification arrangements and the method of product release. This information will be communicated on the Purchase Order or via another acceptable purchasing arrangement.
- 15.6. The Supplier shall not subcontract any product or process to a sub-tier Supplier without the written consent of the Purchaser.
- 15.7. The Supplier is responsible for delivery and quality of any third party sub contractor employed. Delays in delivery resulting from employing a third party are liable to clause 5.3.
- 15.8. Verification by the Purchaser shall not be used by the Supplier as evidence of effective control of

quality by the Supplier and shall not absolve them of the responsibility to provide acceptable product, nor shall it preclude subsequent rejection by the Purchaser.

- 15.9. Where required by the purchase order, the Supplier shall provide applicable certification.
- 15.10. Where the Purchaser provides measuring, inspection or test equipment to the Supplier to be calibrated, they shall ensure that it has been calibrated against measurement standards traceable to national or international standards and where no such standard exists; the basis used for calibration shall be recorded.
- 15.11. The Supplier shall ensure that personnel who perform activities product quality including those performing calibration are competent on the basis of education, training, experience or qualification and records of such are maintained.
- 15.12. The Supplier shall provide and maintain all tooling including gauging and jigs required to manufacture the Goods.
- 15.13. The Supplier shall ensure where applicable, that traceability is maintained of product and material through the supply chain
- 15.14. No deviation from the requirements stated on the Purchase Order shall be accepted without written consent from the Purchaser.
- 15.15. The Supplier shall flow down to the supply chain applicable requirements including those of our customer where stated on the Purchase Order.
- 15.16. The Supplier shall retain records for a minimum of 30 years or longer if stated on the Purchase Order.
- 15.17. Records shall be retained in such a manner to ensure they are readily retrievable, legible, and identifiable to the Purchaser order and suitable protected to prevent damage, loss or deterioration.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1. All inventions, designs, methods, processes, data and software discovered or generated as a result or in the course of the Contract and all intellectual property rights (IPR) therein and in anything produced in the course of the Contract shall belong to the Purchaser and the Supplier assigns and agrees to assign the same to the Purchaser.
- 16.2. All IPR in materials (other than Software) specifically prepared or developed by the Supplier in connection with the provision of Services shall rest with the Purchaser unless specifically agreed otherwise in writing between the Purchaser and Supplier.
- 16.3. IPR specifically arising during and out of the provision of the Services shall be and remain the property of the Purchaser unless specifically agreed otherwise in writing by the Purchaser and the Supplier.
- 16.4. The Supplier shall disclose to the Purchaser all inventions which the Supplier or its staff may make in performing the Services and which are wholly or substantially based on concepts or data developed or supplied by the Purchaser. All IPR to such inventions shall rest with the Purchaser.

- 16.5 The Supplier shall execute all documents and perform such acts as may be reasonably necessary to enable the Purchaser to obtain and/or maintain its IPR.
- 16.6 In respect of IPR vested in a third party, the Supplier shall obtain from such third party (at no cost to the Purchaser) such permission, waiver or licence as may be necessary for the performance of the Services and/or for the data to be used, copied or modified by the Purchaser or by any third party authorised by the Purchaser.

17. INDEMNITY

- 17.1 If any Goods, apparatus, devices or processes supplied under the Contract or used in connection therewith or anything done in relation thereto shall infringe or be alleged to infringe any patent, registered design, trademark, copyright or other intellectual property right the Supplier shall indemnify the Purchaser against all claims, damages, expenditure and liability which the Purchaser may sustain or incur by reason of or in connection with such infringement or alleged infringement.

18. SUB-CONTRACTING AND ASSIGNMENT

- 18.1 No Goods shall be sub-contracted by the Supplier without the prior written consent of the Purchaser. Refer also to paragraph 15.15. The Supplier shall upon request of the Purchaser supply copies of all purchase orders placed upon the sub-contractor. In those cases where permission has been granted to sub-contract none of the Supplier's rights or obligations under the Contract shall be assigned to a third party without the prior written consent of the Purchaser. Sub-contracting by the Supplier shall in no way affect or derogate from the Purchaser's rights under the Contract.

19. FREE ISSUE MATERIAL, ARTICLES ON LOAN

- 19.1 Where Goods are manufactured from material supplied by the Purchaser, unless agreed otherwise, replacements for any spoiled or lost material shall be ordered from the Purchaser at the Supplier's liability and expense. If the Supplier for whatever reason scraps material or components supplied free issue by Purchaser the Supplier shall be responsible for all costs previously incurred by Purchaser including but not limited to material cost and added value.
- 19.2 Any articles or documentation loaned to the Supplier by the Purchaser in connection with the Contract will remain at all times the property of the Purchaser and be surrendered to the Purchaser upon demand in good serviceable condition and are to be used solely in connection with the Contract. Such loaned articles shall be at the risk of the Supplier and insured by the Supplier at the Supplier's expense against loss or damage.
- 19.3 Where the Contract price includes the cost of making or purchasing tooling and/or inspection equipment, these become the property of the Purchaser on completion of the Contract or earlier termination and shall be held in safe custody, property identified and maintained until disposal instructions are issued by the Purchaser and shall only be used by the Supplier in connection with the Contract and other contracts from the Purchaser. The Supplier shall provide copies of drawings of such articles to the Purchaser on request and at no extra charge.

20. OBSOLESCENCE

- 20.1 The Supplier shall use best efforts to obtain guarantees of availability of critical and single sourced parts incorporated in products supplied to the Purchaser under this agreement and shall pass on in writing to the Purchaser notification of pending obsolescence of any such parts. The Supplier shall not permit any last time buy opportunity to pass, without giving the Purchaser the chance to make arrangements for such purchase.

21. TERMINATION

- 21.1. Should the Supplier be in default of any of its obligations under the Contract the Purchaser shall without prejudice to any other right which it may have under the Contract or at law including the right to recover damages have the right to terminate the Contract in whole or in part and to procure elsewhere replacements for the Goods in respect of which the Contract has been terminated and the Supplier shall pay to the Purchaser the amount if any by which the cost of procuring these replacements exceeds, the price which would have been payable to the Supplier for these Goods under the Contract.
- 21.2. In the event that the Purchaser elects to procure elsewhere replacements in accordance with this clause Supplier shall promptly provide Purchaser with all information which may reasonably be required to facilitate such change of Supplier as well as delivering to Purchaser immediately upon request any materials, dies, tooling, drawings, etc, which are the property of Purchaser whether produced under the Order or free issued.

22. LIQUIDATION OR BANKRUPTCY

- 22.1. Should the Supplier (being an individual) commit any act of bankruptcy or if a receiving order shall be made against him or if the Supplier (being a company) shall enter into a voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or have a receiver or manager appointed or go into liquidation whether voluntary or otherwise (except for the purpose of amalgamation or reconstruction which in the opinion of the Purchaser is not detrimental to the Purchaser), or should the Purchaser have reasonable grounds to consider that the Supplier is insolvent then the Purchaser may forthwith terminate the Contract and the Purchaser shall have no liability to the Supplier other than for payment for completed goods delivered to and accepted by Purchaser prior to date of termination
- 22.2 Any free issue material, tools, components, etc. shall be returned immediately to Purchaser.
- 22.3 The Purchaser retains the right of entry to the Suppliers premises to seize any Purchaser owned free issue material, parts, tools, components etc.

23. CONFIDENTIALITY

- 23.1. The Order and the Contract and the subject matter thereof and any samples supplied by the Purchaser and all information supplied by the Purchaser and relating in any way to the Purchaser's business processes, research or property shall be treated as and kept confidential by the Supplier and the Supplier shall not disclose any of them or any details concerning them for any purpose whatsoever (including advertisements, display or publication) without the prior consent in writing from an officer of the Purchaser.
- 23.2 The Supplier shall not use any samples or information supplied by the Purchaser relating in any way to the Purchaser's business processes, research or property except for the purpose of performing the Contract.

24. DELIVERIES MADE

- 24.1. If the Supplier delivers quantities in excess of the quantity due the Purchaser shall have the right to accept at a reduced price or reject the quantity in excess of that due.

24.2. The Purchaser shall not be obliged to accept delivery of any Goods prior to the delivery date.

25. CONFLICT

25.1 These conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Purchaser or subject to which the Order is accepted or purported to be accepted by the Supplier.

26. OTHER RIGHTS & OBLIGATIONS

26.1. The rights and remedies and the obligation of the Purchaser and the Supplier expressed herein are additional to and are not in substitution for or derogation from, any other rights or remedies available to the Purchaser or any other obligations of the Supplier under statute or common or other law or custom.

27. APPLICABLE LAW

27.1. The construction, interpretation, validity and performance of the Order and the Contract and these terms and conditions shall be governed by the laws of England and any dispute arising between the parties shall be litigated in the English Civil Courts. The Supplier submits to the exclusive jurisdiction of the English Civil Courts.

28. COUNTERFEIT

28.1 The seller represents that only new and authentic materials are used in products required to be delivered to Ilmor. In addition, that the materials or components delivered contains no counterfeit parts or materials. No other part or component than a new and authentic component or material is to be used unless specifically approved in advance in writing by Ilmor Engineering Limited.

