

## TERMS & CONDITIONS OF PURCHASE

### Conditions of Purchase:

#### 1. Interpretation

In these Conditions.

'COMPANY' means FLEXICON LTD.

'CONDITIONS' means the standard conditions of purchase set out in this document and (unless the context otherwise requires) includes any special conditions agreed in writing between the Company and the Seller.

'CONTRACT' means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services on these Conditions.

'GOODS' means the goods (including any instalment of the goods or any part of them) described in the Order and

'SERVICES' means the service (if any) described in the Order.

'ORDER' means the Company's purchase order to which these Conditions are annexed.

'SELLER' means the supplier described in the Order.

'SPECIFICATION' includes any plans, drawings, data,

#### 2. Basis of Purchase

Description or other information relating to the Goods or Services. The Order constitutes any offer by the Company to purchase the Goods and/or acquire the Services subject to these Conditions. Unless otherwise specifically agreed in writing, any offer and/or acceptance of an Order by the Seller shall be deemed to constitute an acceptance of and agreement to comply with these Conditions.

- (a) 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 Company or subject to which the Order is accepted or purported to be accepted by the Seller.
- (b) No variation to the Order of these Conditions shall be binding unless agreed in writing by an authorised representative of the Company.
- (c) This Order is subject to withdrawal by the Company without notice unless it is wholly accepted by the Seller and an acknowledgement received by the Company within seven days from the date of the Order. Information asked for in connection with the Order will be supplied with a minimum of delay.

#### 3. Specifications and Equipment

- (a) The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by the Company to the Seller or agreed in writing by the Company. No modifications may be made without the prior written consent of the Company.
- (b) Any specification supplied by the Company to the Seller, or specifically produced by the Seller for the Company, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Company. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract. Goods made to the Company's Specification shall not be manufactured for or supplied to any other party.
- (c) Any plant, equipment or materials supplied to the Company must be accompanied by suitable and adequate information identifying any hazards and advising on necessary precautions associated with its handling, storage and use, in the accordance with Section 6 Health & Safety and Work Act 1974 as amended. Without the above information, materials falling within the definition of 'substances hazardous to health' given in the Control of Substances Hazardous to Health Regulations 1989 will not be accepted by the Company.
- (d) Materials and components supplied under the Order shall be accompanied where requested by a material test certificate for the relative production batch.
- (e) The Seller shall not unreasonably refuse any request by the Company or appointed 3<sup>rd</sup> party to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any 3<sup>rd</sup> party prior to dispatch, and the Seller shall provide the Company with all facilities reasonably required for inspection

and testing free of charge. Any inspection testing by the Company shall not relieve the Seller of its obligations under the Contract.

- (f) If as a result of inspection or testing the Company is not satisfied that the Goods will comply in all respects with the Contract, and the Company so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- (g) The Goods shall be marked in accordance with the Company's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.
- (h) All equipment or tooling paid for or provided by the Company shall be and remain the Company's property and must be returned to the Company in good condition upon request and shall not be copied or used for any purpose other than completion of the Order. The Seller shall correctly maintain and store such equipment and shall be liable for any loss or damage to it while in the possession or under the control of the Seller,

#### 4. Price of the Goods and Services

- (a) The price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:
  - (i) Exclusive of any applicable value added tax (which shall be payable by the Company subject to the receipt of a VAT invoice);
  - (ii) Inclusive of all charges for packing, shipping, carriage, insurance and delivery of the Goods to the delivery address and any duties, imports or levies other than value added tax unless otherwise agreed.
- (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 consent of the Company in writing. If any extra cost arises owing to agreed modifications, the Seller must inform the Company of the extra cost within a reasonable period. The Company will not accept such extra cost unless it approves the cost in writing in advance of the modifications. If modifications reduced the cost of supply, an equivalent reduction in price will be made. Reasonable facilities for verifying any price adjustment will be made available to the Company.
- (c) The Seller shall supply Goods and Services to the Company at the most competitive price offered by the Seller to the market and the Seller acknowledges that the Company will be undertaking market testing.
- (d) The Company shall be entitled to any discount for prompt payment, bulk purchase, volume or purchase customarily granted by the Seller.
- (e) No charge will be made for packaging unless agreed in advance. Any agreed charges for packing must be invoiced at the same time as the Goods to which they related. Packaging will be returned at the Seller's expense upon request (such request to be made within 28 days of delivery), but the Company accepts no responsibility for loss or damage to any packaging.

#### 5. Terms of Payment

- (a) Unless otherwise stated in the Order, the Company shall pay the price of the Goods and the Services within 60 days after the end of the month of delivery provided that an invoice in respect of such Goods and/or Services is received by the Company no later than 5 working days after the end of the month of delivery.
- (b) Each invoice shall quote the number of the Order. No invoice will be accepted unless an Order in writing signed by a Director or Purchasing Manager of the Company has been placed with the Supplier.
- (c) The Company shall be entitled to set off against the price any sums owed to the Company by the Seller.
- (d) The Company reserves the right to suspend all payments to the Seller in the event of a material breach or quality issue in goods supplied

#### 6. Delivery

- (a) The Goods shall be delivered to and the Services shall be performed at the delivery address stated on the Order, at the rate specified, on the date or within the period stated in the Order, and during the Company's usual business hours. Delivery shall be deemed to be made on receipt of the Goods and/or the Services by the Company in accordance with all the terms of the Contract and any agreed allowable variance.
- (b) Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of the Order. The Seller shall give the Company reasonable notice of the specified date, the Seller shall supply the Company in good time with any instructions or any other information required to enable the Company to accept delivery of the Goods and performance of the Services.
- (c) The time of delivery of the Goods and or performance of the Services is of the essence of the Contract. If delivery is overdue, then without prejudice to any other right of the Company, the Company shall be entitled to stipulate that an express delivery service is used at the Seller's sole expense and/or may at its sole option cancel or modify the Order.
- (d) In the event of stoppage or interruption of business by reason of strike, lock-out fire or any other cause the Company reserves the right to cancel, suspend or modify the Order or any part of it.



- (e) An advice note quoting the number of the Order and containing a description of the Goods must accompany each delivery or consignment of the Goods and must be displayed prominently.
  - (f) The Company will not accept any liability for goods delivered or work carried out in excess of the quantity called for on the Order. The Company reserves the right to return any excess delivery to the Seller carriage forward at the Seller's risk. The Company will notify the Seller of any shortage in delivery, and credit must be issued for such shortage before payment is made for that consignment.
  - (g) If the Goods are to be delivered or the Services are to be performed by instalments, the Contract will be treated as a single contract and not severable.
  - (h) All Goods and Services are supplied subject to final inspection by the Company. The Company shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. Any Goods rejected are to be credited in full. If the Company requires the Goods to be repaired or replaced pursuant to Condition 8 below, the Goods must be re-invoiced at the price ruling for the original delivery.
7. Risk and Property
- (a) Risk of damage to or loss of the Goods shall pass to the Company upon delivery to the Company in accordance with the Contract.
  - (b) The property in the Goods shall pass to the Company upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Company once payment has been made and the Goods have been appropriated to the Contract.
8. Warranties and Liability
- (a) The Seller warrants to the Company that it is fully experienced, qualified, equipped organised and financed to perform its obligations under the Contract, and warrants to the Company that the Goods
    - (i) will be of merchantable quality and fit for any purpose held out by the Seller or made known to the Seller at the time the Order is placed;
    - (ii) will be free from defects in design, materials and workmanship;
    - (iii) will correspond with any relevant Specification or sample; and
    - (iv) will comply with all statutory and other requirements, regulations, bye-laws (the latest issue unless otherwise stated) relating to the manufacture, sale, packaging, labelling and delivery of the Goods including any applicable Standard or equivalent specification (unless otherwise agreed)
  - (b) The Seller warrants to the Company that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Company to expect in all circumstances.
  - (c) Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the Company shall be entitled:
    - (i) to require the Seller to repair the Goods or (at the Company's sole option) to supply replacement Goods or Services 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 or Services, 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.
  - (d) The Seller shall indemnify the Company in full against all liabilities loss (whether direct or indirect, and including loss of profits), damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Company as a result of or in connection with:
    - (i) breach of any warranty given by the Seller in relation to the Goods or the Services;
    - (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) any liability under the Consumer Protection Act 2015 in respect of the Goods;
    - (iv) any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods and in performing the Services, including any injury, loss or damage to persons caused or contributed to by the negligence of the Seller its employees, agents or sub-contractors or by faulty design, workmanship or materials (except to the extent that the injury, loss or damage is caused by the negligent act or omission of the Company).
  - (e) The Company shall not be liable to the Seller or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, and of its obligations in relation to the Goods or the Services, if the delay or failure was beyond the Company's reasonable control. In the event that the Company's work is partly or totally disrupted by an event beyond the Company's reasonable control, including (without prejudice to the generality of the foregoing) strikes, lock-outs, breakdown of machinery or shortage of supplies, the Order may be suspended at the Company's sole option.



- (f) The Seller shall maintain insurance cover against its liabilities under the Contract and shall produce the policy and latest premium receipt to the Company on demand.

9. Termination

- (a) Without prejudice to any other right of the Company, the Company shall be entitled to cancel the Order in respect of all or part only of the Goods and/or Services by giving notice to the Seller at any time prior to delivery or performance without incurring any liability to the Seller other than to pay for Goods and/or Services already delivered or performed at the time of such notice.
- (b) The Company shall be entitled to terminate the Contract or modify the terms of the Order (or any part outstanding) without liability to the Seller and reserving all rights of the Company by giving notice to the Seller at any time if:
  - (i) (without prejudice to any other Condition) the Seller is in breach of any of its obligations under these Conditions.
  - (ii) the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986 (Amendment) Order 2015) or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purpose for amalgamation or reconstruction); or
  - (iii) an encumbrance takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Seller; or
  - (iv) the Seller ceases, or threatens to cease, to carry on business, or substantially changes the nature of its business, or
  - (v) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

10. Confidentiality

All information of whatever nature supplied to the Seller by the Company at any time in connection with the Contract shall be regarded as confidential, and shall not without the prior consent in writing of the Company be published or disclosed to any third party or used by the Seller except for the purpose of implementing the Order, and the Seller shall not, without such consent, advertise or announce the supply of Goods and/or the Services to the Company. This obligation shall remain in force notwithstanding completion, cancellation or termination of the Contract.

11. General

- (a) The Order is personal to the Seller and the Seller shall not assign or purport to assign or transfer to any other person any of its rights of sub-contract any of its obligations under the Contract without the prior written consent of the Company.
- (b) Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- (c) No waiver by the Company of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- (d) The heading in these Conditions are for convenience only.
- (e) If any provision of these Conditions is held by any competent authority to be invalid or in enforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- (f) The Contract shall be governed by the laws of England, and the parties submit to the non-exclusive jurisdiction of the English Courts.

