

# **MGS Precision Limited**

## **Conditions of Purchase**

### **Acceptance**

- 1** Each order by the purchaser constitutes an offer to the person named in the order ("the supplier") upon the terms and conditions and at the price stated or referred to in the order and these conditions. Any commencement of work or written acknowledgement (whether or not referring to conditions inconsistent with these conditions unless clearly stated on its face to be a counter offer) in connection with the order shall constitute an unconditional acceptance of the order and these conditions in the Order shall mean the contract formed by such acceptance of the purchaser's Order.

### **Terms and conditions**

- 2.1** The Order shall constitute the whole contract between the purchaser and the supplier with respect to the goods or services referred to in it except to the extent of any statement or representation (written or oral) made by or on behalf of the supplier in connection with the Order and shall exclude any terms and conditions appearing in the supplier's catalogues or elsewhere or referred to in the supplier's quotation or order acknowledgement or in any negotiations or arising from any previous course of business.
- 2.2** Where goods or services are purchased by the Company from the supplier in connection with any contract or proposed contract between the Company and its customers, the Order shall be deemed to incorporate all of the terms and conditions of such contract as though references to the Company, the customer and the goods or services the subject of such contract were respectively substituted by references to the supplier, the Company and the goods and services the subject of the Order provided that in case of any inconsistency between the provisions of such contract and those of the Order the latter shall prevail.

### **Variations**

- 3** Neither the purchaser nor the supplier shall be bound by any variation, waiver of or addition to these conditions except as expressly agreed by both parties in writing and signed on their behalf.

### **Conditions and Warranties**

- 4** The Supplier warrants as separate conditions of the Order that all goods and, to the extent applicable, any services, supplied or to be supplied under the Order (a) shall be new and unused, (b) shall be free from defects in design, material and workmanship, (c) shall be of merchantable quality and fit for their purpose, (d) shall comply with all specifications, drawings, samples or other descriptions furnished or specified by the purchaser and (e) shall comply with all other conditions or warranties express or implied under statute, common law or otherwise.

### **Manufacturing Programmes**

- 5** The supplier shall provide such manufacturing or work programmes as the purchaser reasonably requires and keep the purchaser advised of the progress of the Order and shall, in particular, immediately notify the purchaser of any apprehended delay in delivery or performance.

### **Delivery and Performance**

- 6.1** The supplier warrants as separate conditions of the Order that all goods shall be delivered, carriage paid, at the supplier's risk, adequately packed and protected against damage and deterioration at the times (which shall be at the essence of the Order) and places and in the quantities referred to in the Order or the purchaser's material delivery schedules or other instructions and all services will likewise be timely and properly performed at the correct locations.

## **MGS Precision Limited Conditions of Purchase**

- 6.2** Without prejudice to any other rights of the purchaser;
- 6.2.1** the supplier shall, at the purchaser's request, promptly replace at the original point of delivery, any goods lost or damaged in transit, free of charge; and
- 6.2.2** the purchaser reserves the right to reject or, at its discretion, accept in whole or in part any partial, late or excessive deliveries and in such event the supplier shall pay and indemnify the purchaser against all additional expenses, losses and costs resulting from the supplier's failure to accomplish delivery in accordance with the Order.

### **Receipt and Inspection**

- 7.1** All suppliers are subject to inspection or test, at the purchaser's discretion. The supplier shall also, at the purchaser's request, permit any representatives of or other persons designated by the purchaser to inspect any goods at any reasonable time at any premises at which the Order is performed and shall ensure that, on delivery, the goods are accompanied by such test or quality performance certificates as the purchaser reasonably requires.
- 7.2** The purchaser shall have the right, within a reasonable period, to reject any goods or services which are defective or otherwise, not in accordance with the Order, in which event the supplier shall, if requested to do so by the purchaser and in accordance with the purchaser's instructions, immediately supply in substitution therefore goods or services which conform to the purchaser's original specifications. Alternatively, the purchaser shall be entitled, at its option, to accept such goods or services and, without prejudice to any other remedy, at its discretion and at the Supplier's expense, to carry out, have carried out or permit the supplier to carry out any work which the purchaser considers necessary to conform the goods or services to the Order.
- 7.3** The carrying out or failure to carry out any inspection, testing or checking or any approval given by or on behalf of the purchaser or payment for any goods or services shall not constitute acceptance of them or affect the purchaser's right to reject them.

### **Rejected Goods**

- 8** Goods rejected by the purchaser shall be collected by the supplier within 30 days of notice of rejection being despatched by the purchaser and pending collection shall be held at the expense and risk of the supplier who shall also pay all expenses incurred by the purchaser in packing, handling and sorting rejected goods. If the purchaser fails to collect the rejected goods within such 30 day period the purchaser reserves the right, at its option, to destroy or otherwise dispose of the rejected goods in any manner it thinks fit without liability to the supplier.

### **Terms of Business**

- 9**
- a) The supplier must notify the Buyer of any non-conforming item and submit the appropriate non-conformance paperwork. Non-conforming items cannot be submitted without written authorisation from either the Buyer and/or the end user.
  - b) Any changes in product, manufacturing location or process definition must be submitted in writing and, where required, cannot be carried out without written authorisation from the buyer.
  - c) The Buyer, the Buyer's customers and any regulatory authority must be afforded right of access to all facilities involved in the order, to all applicable records and for verification of parts at the suppliers premises.

## **MGS Precision Limited**

### **Conditions of Purchase**

- d) The supplier is required to flow down to sub-tier suppliers the applicable requirements of the purchase order, including key characteristics where required.
- e) The supplier must maintain all quality records in a readily retrievable manner for a minimum period of 6 years unless otherwise specifically stated within the order/contract.
- f) The supplier shall establish controls to ensure that counterfeit goods and materials are not delivered to the company. The supplier shall provide written notification (within 24 hours) to the company if the supplier becomes aware or suspects that counterfeit goods have been delivered.
- g) The supplier shall ensure, and be able to demonstrate, that their employees are aware of
- their contribution to product or service conformity
  - their contribution to product safety
  - the importance of ethical behavior

**9.1** Payment for goods or services which have been supplied in accordance with the Order shall, subject to these conditions (and provided that by not later than the 7th day of the month the purchaser has received the supplier's invoice therefore marked with the Order number and any applicable part numbers or other details requested by the purchaser and accompanied by a copy of the delivery note for any goods signed without qualification, by a duly authorised representative of the purchaser) normally be made 2 months after the last day of the month of invoicing.

**9.2** Any advance or progress payments are paid on account of the price stated in the Order subject to satisfactory performance by the supplier and are not deposits.

#### **Insurance**

**10.1** The supplier shall forthwith upon demand indemnify the purchaser against any loss, damage or injury to the purchaser and from and against any claim in respect of loss, damage or injury made against the purchaser by any third party or parties and any costs and expenses arising in connection therewith which result from the supplier's performance or purported performance of or failure to perform the Order whether negligent or otherwise and, in particular, without limitation, which results from any defect in any goods or materials used in their construction or in their workmanship or design (except only to the extent the purchaser is responsible for design). The supplier shall at all times insure and keep itself adequately insured with a reputable insurance company against all insurance liability under the Order and shall, on request, provide the purchaser with evidence as to the existence and sufficiency of such insurance.

**10.2** The supplier shall provide all facilities, assistance and advice required by the purchaser or its insurers for the purpose of contesting or dealing with any action, claim or demand arising out of the supplier's performance of or failure to perform the Order.

**10.3** Where under the terms of any guarantee of warranty given by it, the purchaser makes good, repairs or replaces any goods supplied under the Order which it considers were at the time of their delivery by the supplier defective in materials, workmanship or design (except to the extent that the purchaser is responsible for design) or otherwise not in conformity with the Order the purchaser shall be entitled at its option to credit or compensation for or the making good, replacement, or repair free of charge of such goods by the supplier, without prejudice to any other rights of the purchaser, including, without limitation, the reimbursement of any labour or other costs incurred by the purchaser.

# MGS Precision Limited

## Conditions of Purchase

### Patents

- 11** The supplier shall indemnify the purchaser all actions, claims, demands, costs, charges and expenses incurred by the purchaser in connection with any infringement or alleged infringement in any country of the rights of any third party claimed under or in connection with any patent, registered design, trade mark, copyright design right, breach of confidence or other industrial property arising from the sale or use of any goods provided by the supplier except only to the extent that such infringement results exclusively from a design or written instruction given by the purchaser and shall, at the purchaser's request, defend or assist in defending, at the suppliers expense, any action against the purchaser or any person to whom the goods have been supplied.

### Termination at option of Purchaser

- 12** Performance of work under any Order may be terminated by the purchaser, as its option, in whole or in part, at any time by written notice to the supplier notwithstanding the existence with respect to the supplier of any force majeure circumstances as referred to in paragraph 14 below subject to the purchaser paying the supplier for all goods or services which have been completed and delivered in accordance with the Order and not previously paid for and which comply in all respects with the order but not (unless otherwise expressly agreed in writing by the purchaser) further or otherwise.

### Termination for default of supplier

- 13.1** The purchaser may at its discretion, without prejudice to any other remedy, terminate or suspend its performance of the Order in whole or in part by giving written notice to the supplier at any time if the supplier (a) fails to comply with any provision of the Order or any other agreement with the purchaser (b) fails to make progress so as in the reasonable opinion of the purchaser to endanger the performance of the Order, or (c) becomes insolvent, has a receiver, manager, administrative receiver or trustee in bankruptcy (as the case may be) appointed in respect of any of its assets, is the subject of any bankruptcy order or has any order made or resolution passed for its winding up, whether compulsorily or voluntarily, or is dissolved, compounds with its creditors or suffers any similar action in consequence of debt, or (d) the purchaser bona fide believes that any such events may occur. In case of such termination, the purchaser shall be discharged from all further liability in connection with the Order.
- 13.2** No failure or delay by the purchaser to exercise its rights in respect of any default under the Order by the supplier shall prejudice the purchaser's rights in connection with the same or any subsequent default.

### Force Majeure

- 14** Neither party shall be responsible to the other by reason of failure to perform under an Order arising from causes beyond the control of the party concerned including fire, explosion, breakdown, labour dispute or acts or omissions of any authority or governmental agency provided that the supplier shall promptly notify the purchaser of the occurrence of any such circumstance affecting it and the purchaser shall be entitled to obtain elsewhere the goods or services covered by the Order for so long as such circumstances prevail and to reduce to that extent without liability to the supplier its purchase under the Order.

# **MGS Precision Limited**

## **Conditions of Purchase**

### **Purchaser's Property**

- 15.1** The supplier shall, where the Order requires it to repair or apply a process to goods or material of the purchaser ("purchaser's property") (a) bear all risks of loss of or damage to and adequately insure the purchaser's property, (b) use the purchaser's property only in performance of the Order (c) ensure that the purchaser's property is marked with such indications of ownership as the purchase directs and not permitted to be removed from the supplier's premises designated in the Order or to be confused with the property of the supplier or any other person (d) keep the purchaser's property in good condition (fair wear and tear only excepted) and (e) immediately return the purchaser's property to the purchaser on completion of the Order or earlier on the purchaser's request and (f) permit the purchaser's or its representatives to enter the suppliers premises at any reasonable time for the purpose of inspecting the purchaser's property (g) waive any lien which the supplier might otherwise have (whether at the date of the Order or subsequently) on any of the purchaser's property for work done thereon or otherwise but this condition shall not be constructed as a waiver of any other right of recovery of any charges which might be due to the supplier for such work and (h) pay to the purchaser on demand the full value of any of the purchaser's property which is not returned or accounted for to the purchaser's satisfaction.
- 15.2** The provisions of paragraph 15.1 shall apply to all tools, jigs, dies, fixtures, moulds, gauges patterns plant or equipment supplied or for which the purchaser is required to make any payment under the Order ("tooling") as they apply to the purchaser's property (except that where the purchaser contributes less than the whole cost of any tooling it shall remain the supplier's property) and, particular the supplier shall, at its expense, maintain all tooling (whether the supplier's or the purchaser's property) in first class condition and immediately replace any items which are lost or destroyed or become worn out.

### **Designs**

- 16.1** All materials, drawings, patterns, samples specification or other data prepared by the supplier or made available by the purchaser in connection with the Order ("drawings") and all rights (including copyright and any design rights) therein shall be and remain the property of the purchaser which reserves the right to reproduce them or make them available to third partes. The supplier shall treat all drawings as confidential and, in particular, not use them except for the purposes of the Order or disclose them to any third party and shall immediately return to the purchaser on completion of the Order or earlier on the purchaser's request, any drawings made available or for which any payment is required to be made by the purchaser in good order and condition (fair wear and tear only excepted).
- 16.2** The supplier shall promptly make available to the purchaser copies of all drawings which are prepared by it or on its behalf in connection wth any Order.
- 16.3** The supplier shall be responsible for any errors or omissions in any drawings, calculations or particulars supplied by it, whether or not approved by the purchaser, except only to the extent that such errors or omissions are due to inaccurate information supplied in writing by the purchaser.

### **Modifications**

- 17** The purchaser reserves the right, at any time, by written change order, to make changes in the drawings, designs or specifications applicable to the goods or services covered by the Order, the method of shipping or packing or the times or places for delivery or performance and if any such changes affect the cost or performance of the Order, the purchaser may make such adjustment as it considers equitable in the purchase price of the delivery schedule or both.

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### **Title**

- 18** Title in all items of the goods shall pass to the purchaser not later than delivery.

### **Statutory Requirements**

- 19** The supplier undertakes that the goods and all packaging, instructions, and labelling in connection with them shall comply in all respects with all statutes regulations, bye-laws and standards in force at the date of delivery including the Factories Act 1961 and The Health and Safety at Work etc Act 1974 and any safety precautions required for the handling or use of the goods shall be clearly marked on them.

### **Assignment and Sub-contracting**

- 20** The supplier shall not without prior written approval of the purchaser assign or sub-contract any of its obligations under the Order in whole or in part and shall continue to be responsible to the purchaser for all the supplier's obligations under the Order notwithstanding and such assignment or sub-contract so approved by the Company.

### **Publicity**

- 21** Neither the Order nor the purchaser's name shall be used by the supplier for advertisement or publicity purposes without the purchaser's prior written consent.

### **Construction**

- 22.1** The construction, validity and performance of the Order shall be governed in all respects by English Law and the supplier consents to the jurisdiction of the English courts in all matters relating to the Order.
- 22.2** The headings of conditions are for convenience of reference only and shall not affect their interpretation.