

# Conditions of Purchase

## 1. EXTENT OF CONTRACT

The contract entered into between Orbital Gas Systems Limited, trading as Orbital (hereinafter called "the Buyer") and the person, firm or company to whom this Purchase Order is addressed (hereinafter called "the Seller") is for the sale and delivery of the item or all the items which are the subject of this Purchase Order and specified or described herein and in any specification referred to herein (hereafter called "the goods") and includes the supply, protection, painting, marking and delivery of the goods. In the event of any conflict between these General Conditions and the provisions on the face of the Purchase Order, the latter shall prevail. The term "goods" shall include any engineering, installations, services or work specified in the Purchase Order.

## 2. ACCEPTANCE OF CONDITIONS

- (a) The document sets forth the entire agreement between the Buyer and the Seller.
- (b) No conditions or terms contained in the quotations, offers, acknowledgements, letters, advice notes, delivery notes, invoices or other communications of the Seller shall annul or vary any of these General Conditions and the instructions contained in the Purchase Order unless expressly agreed by both parties in writing.

## 3. WARRANTIES

- (a) The Seller assumes all warranties, which are provided by law, and in addition expressly warrants that goods conform to the description and specifications referred to in the Purchase Order.
- (b) The Seller warrants that the design, manufacture, quality, packing and labelling of the goods shall comply in all respects with all the relevant requirements of any Statute, Statutory Rule or Order or other instrument having the force of law, which may be in force at the time when the goods are supplied.
- (c) The Buyer may by written notice to the Seller to reject any of the goods, which fail to meet the requirements of the Purchase Order. Such notice shall be given within a reasonable time after delivery to the Buyer of the goods concerned.

## 4. INDEMNITIES

Without prejudice to any other rights and remedies of the Buyer, the Seller shall indemnify the Buyer against all claims, damages, losses, costs and expenses in respect of any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any defect in the goods.

## 5. DELIVERY

- (a) Delivery shall be in accordance with the requirements set out in the Purchase Order. Strict compliance with such requirements is to be of the essence of the contract.
- (b) All goods must be delivered and the carriage paid unless otherwise agreed.
- (c) In the case of a contract for the purchase of goods by instalment shall be deemed to be a separate contract.
- (d) The Seller shall be responsible for satisfying itself that any container is clean and suitable prior to loading whether or not such container is the property of the Buyer.
- (e) The property in the goods shall pass on payment of the price invoiced for the goods, or on delivery, whichever first occurs.
- (f) Notwithstanding paragraph (e) above, the goods shall remain at the Seller's risk until delivery is affected as provided in the Purchase Order.
- (g) In effecting delivery of the goods to the Buyer's premises the Seller shall comply with the Buyer's safety regulations.
- (h) Unless otherwise specifically agreed between the parties, all packages, containers, pallets, crates, etc. will be supplied at no additional cost to the Buyer and will be non-returnable.

## 6. PROGRESS CHECKS, INSPECTIONS AND TESTS

The Buyer shall be entitled at its discretion and on giving reasonable notice to check progress on the execution of the Purchase Order, to inspect the goods and any work thereon, and to make such tests as are prescribed in the Purchase Order, during manufacture and before delivery. The Seller shall afford the Buyer's representative every facility for such purposes, including access to the Seller (or sub-contractor's) works at all reasonable times. Any such inspection or tests shall not in any way relieve the Seller from any of its obligations under the Contract.

## 7. MARKING AND PACKING

The goods shall be packed and marked in the proper manner and in accordance with the Buyer's instructions and the requirements of the carriers. All containers of hazardous goods (and all documents relating thereto) shall bear prominent and suitable warnings. Any loss or damage arising from failure to observe these conditions will be charged to the Seller.

## 8. WEIGHT AND VOLUME OF GOODS, etc

- (a) Any weighing or measuring of goods by the Buyer upon delivery shall be conclusive of the weight or measurement of the goods so delivered. In the event of a dispute, the Seller shall be given reasonable facilities for verifying the accuracy of the Buyer's weighing and measuring equipment.
- (b) Goods delivered in error or of the wrong description or quality or in excess of the quantity specified in the Purchase Order may without prejudice to any claim the Buyer may have against the Seller in respect thereof be returned by the Buyer at the Seller's expense.

## 9. LOSS OR DAMAGE IN TRANSIT

Subject to any special arrangement made in respect of the goods dispatched to the Buyer from a place outside the United Kingdom, the Seller shall be free of charge and as quickly as possible either repair or replace such of the goods as may either be damaged in transit or having been packed in transit not be delivered to the Buyer provided that

- (a) In the case of damage to the goods in transit, the Buyer shall within 10 days of delivery notify the Seller that the goods have been damaged.
- (b) In the case of non-delivery, the Buyer shall within 10 days of receipt of the advice of dispatch (if given) notify the Seller that the goods have not been delivered. The Buyer shall not be held responsible for failure to notify the Seller of non-delivery unless the Buyer has first received a Dispatch Advice Note, which must be posted to the Buyer's address for delivery immediately on dispatch of the goods.

## 10. PRICE

- (a) Extra charges submitted in respect of this Purchase order will not be accepted without the specific authority of the Buyer.
- (b) In the event that the Seller recovers a refund or credit for taxes paid by the Buyer to the Seller in connection with this Purchase Order, the Seller agrees to pay the Buyer the amount of such refund or credit.

## 11. PATENT RIGHTS

The Seller shall fully indemnify the Buyer against all actions, claims, demands, losses, costs and expenses concerning infringement or alleged infringement of any patent registered design, trade mark, copyright or similar protection which arise from anything done by or for the Seller in relation to the goods supplied under the contract or any use or resale by the Buyer of such goods.

## 12. FORCE MAJEURE

Neither party shall be liable to the other if by reason of any cause which is either beyond the reasonable control of or could not have been reasonably prevented by either party, the Buyer is prevented from or delayed or hindered in making delivery, the Buyer shall be entitled to purchase the whole or any part of the goods elsewhere.

## 13. TERMINATION/CANCELLATION

Without prejudice to any of the rights and remedies of the Buyer under the contract the Buyer may terminate the contract forthwith by written notice to the Seller if the Seller shall become insolvent, be declared bankrupt or go into liquidation, or shall pass a resolution for winding up or if a Court shall make an Order to the effect, or shall have a Receiving Order made against it, or if the Seller shall be in breach of any of the terms and conditions hereto.

## 14. ASSIGNMENT

The Seller shall not assign or sub-let the contract or any rights or obligations thereunder without the previous consent in writing of the Buyer.

## 15. NON-WAIVER

No waiver by either party of any breach of any of the terms and conditions herein contained to be performed by the other party shall be construed as a waiver of any subsequent breach, whether of the same or of any term or condition.

## 16. REMEDIES

The rights and remedies of the Buyer set forth in these General Conditions are not exclusive and are in addition to all other rights and remedies provided by law.

## 17. PROPER LAW

The laws of England shall govern the construction, validity and performance of the Contract.