

Conditions for the Supply of Goods and Services

1 Interpretation

1.1

In these Conditions the following words have the following meanings:

Buyer: the person(s) or company who is placing a Purchase Order for Goods and/or the supply of Services with the Seller

Conditions: the terms and conditions of sale set out in this document

Contract: a contract between the Seller and the Buyer for the sale and purchase of the Goods and/or supply of the Services formed in accordance with Condition 2 and comprising the Conditions, Purchase Order and Order Confirmation

Delivery Point: shall be the Seller's place of business

Goods: the goods supplied by the Seller to the Buyer (including any part or parts of the goods) as set out in the Order Confirmation

Intellectual Property Rights: patents (including rights in, and/or to, inventions); trade marks, service marks, trade names and business names (including rights in goodwill attached thereto); design rights; rights in and/or to internet domain names and website addresses; semi-conductor topography rights; copyright (including future copyright); database rights; rights in and to confidential information (including know how and trade secrets); and all other intellectual property rights; in each case subsisting at any time in any part of the world (whether registered or unregistered) and (i) any pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction and (ii) any similar or analogous rights to any of these rights, whether arising or granted under the laws of England & Wales or in any other jurisdiction

Material: such material, goods or property to be supplied by the Buyer to the Seller for the provision of Goods and/or Services under a Contract as agreed between the parties and specified in the Order Confirmation

Order Confirmation: the Seller's written confirmation of the Purchase Order

Purchase Order: the Buyer's written order for Goods and/or Services

Price: the price for the Goods and/or Services as, referred to in Condition 4

Quotation: the quotation, whether in writing or otherwise, given to the Buyer by the Seller for any Goods and/or Services

Seller: RMIG Limited (registered in England and Wales under Company number 00999363) Services: the Services supplied by the Seller to the Buyer as set out in the Order Confirmation

Service Point: the Seller's premises at 1/2 Adlington Court, Risley Road, Warrington, Cheshire WA3 6PL

1.2

Any reference in these Conditions to any provisions of statute or a statutory instrument shall (unless otherwise specified) be construed as a reference to that provision as amended, reenacted or extended at the relevant time.

1.3

Any reference in these Conditions to the neuter shall include the masculine and feminine and the singular shall include the plural if the context so requires.

1.4

Any reference in these Conditions to the neuter shall include the masculine and feminine and the singular shall include the plural if the context so requires.

1.5

Any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding

2 Basis of contract

2.1

All Goods and/or Services are supplied subject to these Conditions to the exclusion of all other terms and conditions and all previous oral or written representations (including any terms or conditions which the Buyer purports to apply under the Purchase Order, confirmation of order, applicable specification or similar document).

2.2

The Purchase Order constitutes an offer by the Buyer to purchase Goods and/or Services subject to these Conditions.

2.3

The Purchase Order shall only be deemed accepted when the Supplier issues an Order Confirmation at which point and on which date the Contract shall come into existence (Contract Date).

2.4

No terms or condition endorsed upon, delivered with or contained in the Purchase Order (including, any applicable specification or similar document) will form part of the Contract simply as a result of a reference to such document in the Contract.

2.5

No representative, agent or sales person has the Seller's authority to vary, amend or waive any of these Conditions on behalf of the Seller and no amendment or addition to any of these Conditions shall be effective until expressly agreed in writing by the Seller.

2.6

Acceptance of delivery of the Goods or commencement of the performance of the Services by the Seller will be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.

2.7

The Buyer must ensure that the terms of its Purchase Order (including any applicable specification or similar document) are complete and accurate.

2.8

Any Quotation shall not constitute an offer and is valid for such a period of time as specified in the Quotation, or, if not specified in the Quotation for a period of 7 (seven) days only from the date of the Quotation provided the Seller has not previously withdrawn it.

2.9

Any quotation, calculation, plan and advice given, is given free of charge without liability and to the best of the Seller's knowledge. However, the Seller reserves the right to charge for such services where it does not gain the said order.

2.10

Any Purchase Order which the Seller has accepted can not be cancelled by the Buyer unless the Seller provides its written agreement and the Buyer indemnifies the Seller in full against any loss, costs, damages, charges and expenses suffered or incurred directly or indirectly by the Seller as a result of such cancellation.

3 Description**3.1**

All drawings, descriptive matter, applicable specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and/or provision of the Services described in them and will not form part of the Contract.

3.2

It is the responsibility of the Buyer to ensure that any Material supplied by the Buyer under each Contract is suitable for the Buyer's intended purpose and the Seller shall have no liability for any loss, liability, costs, claims or expenses arising out of or in connection with any Material supplied if the Material is defective, or does not conform to any applicable specification, or is not of satisfactory quality or fit for the Buyer's intended purposes.

3.3

The Seller may make any changes to any applicable specification, design, materials or finishes of the Goods and/or provision of the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature, quality or performance of the Goods and/or Services.

4 Price**4.1**

The Price for the quantities of Goods and/or Services shall be the price set out in the Quotation, or any subsequent quotation if the Quotation is not accepted within the period for which it remains valid.

4.2

The Seller may by serving notice to the Buyer at any time up to 14 (fourteen) days before delivery increase the price of the Goods and/or Services to reflect any increase in the cost of manufacture, processing or distribution of the Goods and/or Services which is due to:

- A. any factor beyond the reasonable control of the Seller including foreign exchange fluctuation, currency regulation, alteration of duties and taxes, increase in cost of labour, materials and other manufacturing costs and transport costs;
- B. any change in delivery dates, quantities or any applicable specifications for the Goods and/or Services requested by the Buyer; and/or
- C. any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3

The Price is exclusive of any value added tax or any other applicable tax which the Buyer shall pay in addition when it is due to pay for the Goods and/or Services.

4.4

The Price for the Goods is given on an ex-works basis and where delivery is other than at the Delivery Point the Buyer shall pay the Seller's additional charges for transport, packaging, loading and insurance when it is due to pay for the Goods.

4.5

For Goods of special manufacture, the Seller may deliver a quantity of Goods of up to +/- 10% than the quantity ordered and the Buyer shall not be entitled to reject the Goods or any of them for this reason and shall pay for such Goods at the unit rate set out in the Quotation.

5 Delivery

5.1

Delivery of the Goods shall be made ex-works as defined in INCOTERMS 2000 unless the point of delivery is otherwise agreed between the Seller and the Buyer in accordance with Condition 5.5. The Services shall be performed at the Service Point.

5.2

The Buyer will take delivery of the Goods within 7 (seven) days of the Seller giving it notice that the Goods are ready for delivery. The Buyer must accept delivery of the Goods and pay for them in full.

5.3

Delivery of the Goods and/or performance of the Services shall be during the Seller's usual business hours.

5.4

Any dates specified by the Seller for delivery of the Goods and/or performance of the Services are approximate only and may not be made of the essence by notice. If no dates are so specified, delivery will be within a reasonable time.

5.5

If the point of delivery is otherwise agreed under Condition 5.1, the Goods shall be delivered to the premises as specified by the Buyer in the Purchase Order by such means as the Seller thinks fit unless the Buyer has specified in the Purchase Order the details of a carrier which it reasonably requires shall be used having regard to the nature of the Goods and other circumstances of the case.

5.6

If the Seller appoints a carrier for the carriage of the Goods in accordance with Condition 5.5, the carrier shall be deemed to be the Buyer's agent except for the purposes of sections 44, 45 and 46 of the Sale of Goods Act 1979.

5.7

If the Buyer fails to take delivery of the Goods within 7 (seven) days of the Seller giving notice they are ready for delivery (if delivery is ex-works) or to accept delivery (if delivery is other than ex-works) or to provide any instructions, documents, licenses or authorisations required to enable the Goods to be delivered and/or the services to be performed on the due date (without prejudice to its other rights):

- A. the Goods shall be deemed to have been delivered;
- B. risk in the Goods shall pass to the Buyer; and
- C. the Seller may:
 - I. store and arrange for the storage of the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including insurance); and/or
 - II. following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the Price.

5.8

The Buyer shall provide at its expense at the agreed point of delivery adequate and appropriate equipment and manual labour for loading or off-loading the Goods. The Buyer will indemnify the Seller against any liability and expense (whether arising under statute or common law or otherwise) caused by the Buyer's failure to provide appropriate equipment and manual labour for loading or off-loading the Goods (whether or not the loading or off-loading is supervised by or on behalf of the Buyer) for:

- A. any personal injury to or death of any of the Seller's employees, agents or subcontractors or any third party; and/or
- B. any damage to or loss of any property of the Seller, its employees, agents or subcontractors or any third party.

5.9

The Seller may make delivery of the Goods by instalments. Each separate instalment shall be invoiced and paid for in accordance with the Contract.

5.10

Failure by the Buyer to pay for any one or more instalments in accordance with the Contract shall entitle the Seller (without prejudice to its other rights and remedies):

- A. to suspend without further notice deliveries of Goods or goods under any other contract between the Seller and the Buyer pending payment by the Buyer; and/or
- B. to treat the Contract as repudiated by the Buyer.

5.11

The quantity of any consignment of Goods as recorded by the Seller upon despatch from the Seller's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

5.12

The Seller shall not be liable for any non-delivery of Goods or failure in performance of the Services (even if caused by the Seller's negligence) unless written notice is given to the Seller within 14 (fourteen) days of the date when the Goods would in the ordinary course of events have been delivered or performance of the Services would have taken place.

5.13

Any liability of the Seller for non-delivery of the Goods and/or failure in performance of the Services shall be limited to replacing the Goods and/or performing the Services within a reasonable time or at the option of the Seller, issuing a credit note against any invoice raised for such Goods and/or Services which have been paid by the Buyer.

5.14

A signature of qualified acceptance on a carrier's delivery note shall not be written notice to either the carrier or the Seller for the purpose of these Conditions.

6 Payment

6.1

The Seller may invoice the Buyer for the Goods and/or the Services on completion of the Services or at any time after delivery or deemed delivery.

6.2

The Buyer shall pay each invoice submitted by the Seller: (a) in Sterling within 30 (thirty) days from the date of invoice unless otherwise agreed by the Seller in writing; and (b) in full and cleared funds; and time for payment shall be of the essence.

6.3

All payments payable to the Seller under the Contract shall become due immediately upon termination of the Contract despite any other provision.

6.4

All payments to be made by the Buyer under the Contract will be made in full without any setoff, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Buyer is required by law to make any such deduction or withholding.

6.5

The Seller may appropriate any payment made by the Buyer to the Seller to such of the Goods as the Seller thinks fit despite any purported appropriation by the Buyer.

6.6

If the Buyer fails to make any payment under the Contract on the due date then (without prejudice to its other rights and remedies):

- A. the Seller may charge the Buyer interest from the due date on the amount unpaid at the annual rate of 3% (three per cent) above the Seller's bank's base rate from time to time until payment is made in full (a part of a month being treated as a full month for the purpose of calculating interest);
- B. the Seller shall be entitled to suspend performance of any of the obligations under the Contract until the outstanding amount has been received by the Seller from the Buyer; and
- C. the Seller may charge a minimum of £25 (twenty five pounds) and a maximum of 10% (ten percent) of the total invoice value to cover internal debt collection expenses.

7 Risk/Ownership

7.1

Risk of damage to or loss of Goods shall pass to the Buyer on delivery in accordance with Condition 5.1.

7.2

If delivery is made in accordance with Condition 5.5 the risk of damage to or loss of Goods shall pass to the Buyer:

- A. where the Seller has used such means of delivery as it thinks fit, on the date of delivery to the agreed point of delivery; or
- B. where the Buyer has specified a carrier in accordance with Condition 5.5, on the date that the Goods are handed to such a carrier.

7.3

Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in Sterling and in cash or cleared funds) all sums due to it in respect of:

- A. the Goods and/or the Services; and
- B. all other sums which are or which become due to the Seller from the Buyer on any account.

7.4

Until ownership of the Goods has passed to the Buyer, the Buyer must:

- A. hold the Goods on a fiduciary basis as the Seller's bailee;
- B. store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;
- C. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
- D. maintain the Goods in satisfactory condition insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller and on request shall produce the policy of insurance to the Seller; and
- E. hold the proceeds of the insurance referred to in Condition 7.4(d) on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

7.5

The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

- A. any sale shall be effected in the ordinary course of the Buyer's business at full market value and the Buyer shall account to the Seller accordingly; and
- B. any such sale shall be a sale of the Seller's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

7.6

Where the Seller is unable to determine whether any goods of the Buyer are the Goods, the Buyer shall be deemed to have sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer.

7.7

The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

7.8

The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7.9

On termination of the Contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this Condition 7 will remain in effect.

8 Warranty/Quality

8.1

The Seller warrants that (subject to the other provisions of these Conditions) the Goods will at the time of delivery and for a period of 3 (three) months from that date (Warranty Period):

- A. conform in all material respects with their description and any applicable specification;
- B. be free from material defects in design, material and workmanship;
- C. be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
- D. be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer has made known that particular purpose to the Seller in writing and the Seller has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgment of the Seller.

8.2

The Seller warrants that (subject to the other provisions of these Conditions) the Services will be provided using reasonable care and skill.

8.3

Subject to Condition 8.4, if:

- A. the Buyer gives notice during the Warranty Period:
 - I. within 3 (three) days of delivery where the defect should be apparent on reasonable inspection; or
 - II. within 3 (three) days of the same coming to the knowledge of the Buyer where the defect is not one which should be apparent on reasonable inspection; that some or all of the Goods do not comply with the warranty set out in Condition 8.1; and
- B. the Seller is given a reasonable opportunity of examining the Goods and the Buyer has paid or agreed to pay the Seller's reasonable costs and expenses for so doing; and
- C. on request, the Buyer returns such Goods to the Seller's place of business at the Buyer's cost and risk; the Seller shall, at its option, repair or replace the Goods (or the relevant part of the Goods) or refund the price of the Goods which are proved to the reasonable satisfaction of the Seller to have been in breach of the warranty given by the Seller in Condition 8.1.

8.4

The Seller shall not be liable for the Goods' failure to meet the warranty in Condition 8.1 if: (a) any damage or defect is directly or indirectly caused by any Material supplied by the Buyer; (b) the Goods have been altered in any way whatsoever, or have been subject to misuse or unauthorised repair by the Buyer or any other third party; (c) the Buyer has failed to follow the Seller's oral or written instructions as to use, storage, installation, maintenance requirements of the Goods or (if there are none) good trade practice; and/or (d) the defect in the Goods arises from any defect in any design, drawing, applicable specification or instruction supplied or approved by the Buyer.

8.5

Except as provided in this Condition, the Seller shall have no liability to the Buyer for the Goods' failure to comply with the warranty set out in Condition 8.1. The terms of these Conditions shall apply to any repaired or replacement Goods provided by the Seller under Condition 8.3.

9 Limitation of liability

The buyer's attention is in particular drawn to the provisions of this condition

9.1

Nothing in these Conditions shall limit or exclude either party's liability for:

- A. death or personal injury caused by the negligence of either party;
- B. any breach of its obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Sale and Supply of Goods and Services Act 1982; and/or
- C. fraudulent misrepresentation.

9.2

Subject to Condition 9.1:

- A. the Seller's total liability to the Buyer arising in connection with the performance or contemplated performance of the Contract whether in contract, tort (including negligence), breach of statutory duty or otherwise shall be limited to the price of the Goods and/or Services or where the Seller has exercised its right to make deliveries by instalments the Seller's liability will be limited to the relevant instalment value; and
- B. the Seller shall not be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit, loss of use, loss of production, loss of contracts, loss of goodwill or for any financial or economic loss or for any indirect or consequential damage whatsoever arising under or in connection with the Contract that may be incurred or suffered by the Buyer.

9.3

Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

10 Buyer's material

10.1

Where the Buyer is required to supply to the Seller such amounts of Material as agreed between the parties and specified in the Order Confirmation, the Material shall be at the Seller's risk as regards loss or damage for:

- A. the period commencing on the date the Material is delivered by the Buyer to the Service Point and ending on the date of delivery in accordance with Condition 5.1; or
- B. a period of 2 (two) months from and including the date on which the Material is delivered by the Buyer to the Service Point, whichever is the shorter, and for the avoidance of doubt the Material shall at all times thereafter be held at the Buyer's risk as regard loss or damage.

10.2

In addition to any right of lien to which the Seller may by law or the terms of these Conditions be entitled the Seller shall be entitled to a general lien in respect of all such Material in the Seller's possession whether paid for or not.

10.3

The Seller shall have the right to put any Material over which it has a lien into a saleable state by any means whatsoever (without prior notice to the Buyer) and to sell such Material whether by private treaty or otherwise on such terms as the Seller may agree at the Seller's sole discretion. Out of the proceeds of the sale the Seller shall be entitled to retain a sum equivalent to all unpaid monies due to it from the Buyer together with the cost of putting the Material into a saleable state and the expense of the sale and the balance shall be paid to the Buyer

11 Burrs and offcuts

11.1

All punchings, burrs and other offcuts, whether from Material supplied by the Buyer or not, shall be the Seller's property unless otherwise agreed in writing by the parties.

12 Tolerances and margins

12.1

The Seller will supply standard size sheets unless otherwise agreed between the parties and specified by the Buyer in each Purchase Order.

12.2

In all cases sheet and plate sizes shall be supplied by the Seller to the usual commercial tolerances of the perforating trade unless agreed otherwise in writing between the parties and specified by the Buyer in each Purchase Order.

13 Intellectual property right

13.1

All Intellectual Property Rights in the Goods, information of any kind (including drawings, any applicable specifications, plans, descriptions, blue prints, designs, tooling, documents and technical information), or Materials supplied by the Seller to the Buyer or arising out of or in connection with the supply of Services, belong to and shall vest in the Seller.

13.2

Where the Goods and/or Services or any part of them are manufactured or any process is to be applied to the Goods and/or Services by or on behalf of the Seller to any applicable specification of the Buyer then the Buyer shall indemnify the Seller against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with the Contract brought or threatened to be brought against the Seller by any third party as a result of the infringement or alleged infringement of any third party's Intellectual Property Rights. If any such claim is brought or threatened against the Seller then the Seller shall be entitled to suspend delivery of the Goods or provision of the Services.

13.3

The Seller shall have the right to publish descriptive articles about the Goods and/or Services with or without illustrations either on its own account or in conjunction with the Buyer, without the consent of the Buyer.

14 Force majeure

14.1

The Seller shall not be liable to the Buyer or be deemed in breach of the Contract because of any delay in performing or failing to perform any of its obligations under the Contract if delay or failure was due to any cause beyond the Seller's reasonable control.

14.2

Without prejudice to the generality of Condition 14.1, the following shall be included as causes beyond the Seller's control:

- A. inability to secure labour, fuel, parts, machinery, materials or supplies; or
- B. acts of God, war, threat of war, riots, national emergency, sabotage, requisition, acts of terrorism or civil disturbance; or
- C. fire, flood, explosion, epidemic, drought or accident, legislation, import or export regulations or embargoes, requisitioning or other act or order by any government department council or other duly constituted authority; or
- D. strikes, lockouts, labour disputes involving employees of the Seller or default of suppliers or sub-contractors.

14.3

The Seller reserves the right to suspend deliveries wholly or partly and the Seller shall be entitled to a reasonable extension of time for performing its obligations under the Contract.

15 Termination

15.1

The Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if:

- A. the Buyer is affected or in the Seller's reasonable opinion is likely to be affected by one or more of the following events:
 - I. an administrator, administrative receiver, receiver or manager, liquidator, provisional liquidator or similar officer is appointed in respect of the whole or any part of the Buyer's assets (save for the purposes of a solvent reconstruction or amalgamation previously approved in writing by the Seller), and/or a winding up petition is issued against the Buyer;
 - II. the Buyer proposed to enter or enters into any composition or arrangement with its creditors generally or any class of creditors; and/or
 - III. the Buyer is subject to an event analogous to (i) or (ii) above in any other jurisdiction; and/or
- B. the Buyer has committed a material breach of any of the provisions of this Agreement, which breach is not remedied (if capable) within 30 (thirty) days of receipt by the Seller of the written notice of the breach.

15.2

Termination of the Contract for any reason shall not affect any rights or liabilities that have accrued prior to such termination or the coming into force or continuance in force of any term that is expressly or by implication intended to come into or continue in force on or after termination.

16 Communication

16.1

All communications between the parties about the Contract must be in writing and delivered by hand or sent by pre-paid first class post or faxed to the address detailed in the Order Confirmation for each party. A party may change the details for notice delivery by giving notice to the other in accordance with this Condition.

16.2

Communications shall be deemed to have been received if sent by pre-paid first class post, 2 (two) days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or if delivered by hand, on the day of delivery; or if sent by facsimile transmission or electronic mail on a working day prior to 4:00 p.m., at the time of transmission and otherwise on the next working day.

17 General

17.1

Any failure by the Seller to exercise any rights under these Conditions shall not constitute a waiver or prevent the subsequent exercise of such rights.

17.2

These Conditions, the Quotation, the Purchase Order and the Order Confirmation (including any applicable specification) contain all the terms which the parties have agreed in relation to the transactions provided for by the Contract and neither of the parties has been induced to enter into the Contract by a statement or promise which they do not contain. This shall not exclude any liability, which a party would otherwise have to the other party in respect of any statement made fraudulently by that party prior to the date of the Contract.

17.3

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part they shall not affect the validity of the other provisions of these Conditions.

17.4

The Seller and the Buyer do not intend that any of the terms in the Contract will be enforceable by virtue of the Contracts (Rights of third Parties) Act 1999 by any person not a party to it.

17.5

The Seller may assign, license or sub-contract all or any part of its rights of obligations under a Contract without the Buyer's consent.

17.6

This Contract is personal to the Buyer who may not assign, license or sub-contract all or any of its rights or obligations under this Contract without the Seller's prior written consent.

17.7

The formation, construction, performance, validity and all aspects of each Contract are governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.