

AROIVA LIMITED**TERMS AND CONDITIONS OF PURCHASE****1** Definitions

1.1.1 In these conditions the "Purchaser" shall mean Arqiva Limited who is issuing the Purchase Order ("the Order") and the "Supplier" shall mean the company or person(s) to whom the Order is issued. These terms and conditions shall govern the sale or supply of goods and/or services from the Supplier, notwithstanding any other terms and conditions that may be or may have been proposed by the Supplier and shall be deemed incorporated in any contract between the Purchaser and the Supplier for the sale or supply to the Purchaser of goods or services, unless both parties have given their written agreement to accept any other terms and conditions in which case those terms and conditions shall apply in substitution to these terms and conditions.

2 Acceptance

2.1 The Purchaser shall have the right to terminate the Order without liability unless accepted by the Supplier within 14 days from the date of the Order. Acceptance of the Order constitutes a contract which incorporates these terms and conditions. Failure to accept the Order in writing or otherwise will not prevent the Supplier's implied acceptance of these terms and conditions by conduct. No variation amendment of or addition to the Order by the Supplier shall form part of any contract unless made and specifically accepted by the Purchaser in writing.

3 Warranty and Indemnity

3.1 The Supplier warrants to the Purchaser that:

3.1.1 The Supplier has the right to and shall supply all goods free from any charges, liens or other encumbrances. All goods shall correspond strictly with description and other specification supplied or made known to the Supplier and with any sample, shall be in every respect fit for the purpose for which the Purchaser has expressly or by implication made known that it requires the same and shall be of satisfactory quality which is also of a standard not less than that of previous supplies (if any) approved by the Purchaser and that the goods will be free from defects in design, material and workmanship;

3.1.2 All goods and the performance of any services shall comply with all current and applicable UK and EC legislation, regulations or other legal requirements;

3.1.3 All 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 Purchaser to expect in all the circumstances;

3.1.4 The Supplier will at all times maintain insurance with a reputable insurance company against all liability under this contract.

3.2 Without prejudice to any other remedy, if any goods or services are not supplied or performed in accordance with the contract, then the Purchaser shall be entitled:

3.2.1 to require the Supplier to repair the goods or to supply replacement goods or services in accordance with the contract within 7 days or to have them so repaired by a third party in which case the Supplier shall reimburse the Purchaser for all costs and expenses thereby incurred; or

3.2.2 at the Purchaser's sole option, and whether or not the Purchaser has previously required the Supplier to repair the goods or to supply any replacement goods or services to treat the contract as discharged by the Supplier's breach and require the repayment of any monies which have been paid.

3.2.3 The Supplier shall indemnify the Purchaser in full against all liability, loss, damages, costs and expenses (including legal expenses and consequential or economic loss) awarded against or incurred or paid by the Purchaser as a result of or in connection with:

- (i) breach of any warranty given by the Supplier in relation to the goods or the services;
- (ii) any claim that the goods or services infringe, or their importation, use or resale, infringes the patent, copyright, design right, trade mark or other intellectual property right of any other person, except to the extent that the claim arises only because of strict compliance by the Supplier with any specification supplied by the Purchaser;
- (iii) any liability under the Consumer Protection Act 1987 or similar, equivalent or replacement legislation in respect of the goods; and
- (iv) any act or omission of the Supplier or its employees, agents or subcontractors in supplying or delivering the goods.

3.3 If the Purchaser rejects or refuses to accept any goods having the right so to do it shall notify the Supplier and if the goods are not collected by the Supplier within seven days of such notification, the Purchaser may, but shall not be bound to return such goods to the Supplier and in the event that it decides to return them, the goods shall be returned at the risk and expense of the Supplier.

4 Delivery & Invoice

4.1 The goods, properly packed and secured in such manner as to reach their destination in good condition under normal conditions of transport, shall be delivered or despatched for delivery by the Supplier at its cost and risk to the address of the Purchaser as specified on the Order or as

the Purchaser shall specify. Delivery shall be made between the hours of 8.30 am and 5.00 pm Monday to Friday (inclusive) bank and public holidays excepted unless agreed otherwise.

4.2 The date of delivery of goods and the provision of any services shall be as specified on the Order unless otherwise agreed between the Purchaser and the Supplier. The Supplier shall immediately give notice to the Purchaser of any likely delay in delivery of which it becomes aware.

4.3 If the Supplier is late with any delivery of goods or provision of any services the Purchaser shall have the right to cancel the contract at any time before delivery of the goods or provision of the services (as applicable) is effected.

4.4 If the Purchaser chooses not to exercise this right it shall be entitled to liquidated damages equal to 5% of the price of the relevant goods or services for each week that delivery is delayed up to a maximum of 25% which the Purchaser may recover or set off against any sums owed to the Supplier.

4.5 No charge shall be payable by the Purchaser for packing or crating materials or services, cartons, containers, carriage or storage unless such charge is expressly incorporated in this Order.

4.6 The Purchaser's Order number must be quoted by the Supplier on all invoices, advice notes, correspondence, packing lists and containers.

4.7 Following delivery of the goods and unpacking by the Purchaser the Supplier shall, if so requested by the Purchaser, collect and remove the discarded packaging.

4.8 If the Purchaser specifies in the Order (or otherwise) that delivery shall be made to the Purchaser's address at Crawley Court, Winchester, Hampshire, the Supplier shall ensure that all deliveries use a route which avoids passing through or entering Crawley Village (adjacent to Crawley Court).

5 Confidentiality

5.1.1 No tools, patterns, raw materials, plates, designs, drawings, schedules, instructions, specifications or other confidential information supplied by the Purchaser to the Supplier to enable it to execute this Order shall be used or disclosed by the Supplier for any purpose without the agreement in writing of the Purchaser. The same and all rights therein and in respect thereof shall remain the property of the Purchaser, shall be kept in good condition and shall be returned to the Purchaser at the Supplier's risk on demand. Any information concerning the business secrets or other information relating to the business activities of the Purchaser that is not already in the public domain shall be treated as confidential and accordingly shall not be disclosed to any third party. During the term of this agreement the Supplier shall not undertake work for any third party, the performance of which would be likely to put the Supplier in a conflict of interest in relation to the confidential information referred to above.

6 Title

6.1.1 Property in the goods shall pass to the Purchaser on delivery or earlier payment of the purchase price without prejudice to any right of rejection which may accrue to the Purchaser under these standard conditions.

7 Price

7.1.1 The price of the goods and the services shall be as stated in the Order and, unless otherwise so stated, shall be:

- 7.1.1 exclusive of any applicable value added tax; and
- 7.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery and any duties, imposts or levies other than value added tax.

7.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rate of exchange or otherwise) without the prior consent of the Purchaser in writing.

7.3 Payment of the price shall be made within 60 days of the consignment of goods or the provision of services being made or of delivery of the Supplier's invoice if later.

7.4 Unless otherwise agreed, a separate invoice must be rendered for each individual consignment of goods or performance of services and all invoices must quote the Purchaser's Order number.

7.5 The Purchaser shall be entitled to make such deductions from the price as it reasonably thinks fit and to set off against the price any sums owed to the Purchaser by the Supplier.

8 Insolvency

8.1.1 If the Supplier being an individual shall at any time become bankrupt or shall have a receiving order made against him/her or shall make any composition or arrangement with or for the benefit of his/her creditors, or if the Supplier being a company shall go into liquidation (not being a member's winding up for the purpose of reconstruction or amalgamation) or if a receiver shall be appointed or an embumbrancer takes possession of any of its assets or an administration order is made, or the Purchaser

- reasonably apprehends any of the foregoing and notifies the Supplier accordingly, the Purchaser shall be at liberty:
- 8.1.1 To cancel the contract summarily by notice in writing without compensation to the Supplier; or
- 8.1.2 To give any such receiver or liquidator or any other person the option of carrying out the contract; or
- 8.1.3 To set off any payments due hereunder against sums due from the Supplier to the Purchaser.
- 8.1.2 The exercise of any of the rights granted to the Purchaser under this paragraph shall not prejudice or affect any right of action or remedy which shall accrue thereafter to the Purchaser.
- 8.3 The Purchaser shall be entitled to rescind any contract for goods which have not then been delivered in whole or in part or require the Supplier to suspend delivery for any period if the activities of the Purchaser for which goods were ordered are stopped or seriously interfered with by any cause of any kind whatsoever beyond the Purchaser's control.
- 9 Inspection
- 9.1.1 The Supplier shall afford the Purchaser and its servants or agents every facility for inspection of the goods and of any raw or finished materials or work before, during and after manufacture. The Purchaser shall be entitled to reject forthwith any goods, materials or work which does not comply with the standard required or the terms expressed or implied in this Order as to quality, condition or description, but notwithstanding any inspection or any failure to inspect the Purchaser shall remain entitled to reject any such goods, materials or work which does not comply with the standard required or the terms expressed or implied in this Order as to quality, condition or description, but notwithstanding any inspection or any failure to inspect the Purchaser shall remain entitled to reject any such goods, materials or work upon delivery or within a reasonable time thereafter, and goods or materials so rejected will be returned at the Supplier's expense and risk. The Purchaser shall not be deemed to have accepted the goods until it has had a reasonable opportunity to inspect the goods following delivery or, if later, within a reasonable time after any latent defect in the goods has become apparent.
- 10 Force Majeure
- 10.1.1 a) If the Supplier shall fail to deliver or supply the goods or services hereby ordered or any of them within the time herein stipulated, or if any of the goods be lawfully rejected by the Purchaser, or if there be any failure by the Supplier to comply with these conditions; or
- b) If acceptance or payment for the goods or services or their use by the Purchaser in the course of its business be prevented or hindered by any Act of Parliament, Government regulation, strike, lock out, fire or other contingency beyond the control of the Purchaser the Purchaser shall be entitled to cancel this Order in whole or in part.
- If this Order is for delivery or supply by instalments and any of the events stated at (a) or (b) above shall occur in relation to one or more instalments, the Purchaser's right to cancel shall extend to the whole balance of the Order not already delivered or supplied and accepted, or any part thereof.
- 11 Intellectual Property
- 11.1.1 The Supplier warrants that the sale of or licence and warranty of goods or materials supplied pursuant to this Order will not infringe any United Kingdom or foreign patent, registered designs, trade marks, copyright, design right or other rights generally, and undertakes to indemnify the Purchaser against all damages, costs and expenses and all judgements, decrees or orders arising out of any such infringements or alleged infringements, including all costs and expenses of an incidental nature to the defence of legal proceedings in connection therewith. Unless otherwise agreed in writing, all copyright and other intellectual property rights in the goods or works arising from the services supplied (including all future rights arising out of such goods or services and any preparatory material) (the "Works") and physical possession of any media upon which such Works are contained pursuant to or resulting from this Order shall be the property of and are hereby assigned to the Purchaser on delivery.
- Acceptance of the terms hereof will be deemed an absolute assignment of all such rights in the Works by the Supplier to the Purchaser with full title guarantee and free from all charges, liens and other encumbrances. The Supplier hereby agrees at the Purchaser's cost to execute or complete any formal consents or agreements reasonably required by the Purchaser to formalise or enforce the rights granted herein;
- 11.2 Unless otherwise agreed in writing, the Supplier hereby grants to the Purchaser and its associated companies an irrevocable royalty-free licence to use, copy or modify the Works (the intellectual property rights in which have not, for whatever reason, been assigned to the Purchaser) with a right to sublicense those Works to third parties for the purposes intended by the Purchaser and notified to the Supplier from time to time; and
- 11.1.2 Where applicable, the Supplier hereby waives all moral rights (as defined in the Copyright Designs and Patents Act 1988 (as amended) or equivalent legislation in other jurisdictions) in the Works supplied hereunder in so far as they relate to the Purchaser, and agrees that it has obtained all waivers of moral rights and consents from any employee, agent, subcontractor or other third party necessary to comply with its obligations hereunder.
- 12 Hazardous Goods
- 12.1 The Supplier shall not deliver any hazardous goods or toxic substance to the Purchaser's premises without the Purchaser's prior written approval. The Supplier shall observe all international agreements relating to the pricing, labelling or carriage of hazardous goods and such goods must be marked by the Supplier with the appropriate international danger symbol(s) and a description of the material displayed in English. Transport and other documents must include a declaration of the hazard and a description of the material in English. Goods must be accompanied by appropriate emergency information in English in the form of written instruction, labels or markings.
- 12.2 The Supplier shall promptly notify the Purchaser of any information or instructions it holds, or are reasonably available to the Supplier regarding any potential hazards known or believed to exist in the transport, handling, storage or use of the goods.
- 13 Year 2000 Compliance
- 13.1.1 The Supplier warrants that, if applicable to the whole or any part of the goods, the goods shall be coded such that neither the performance nor the functionality of the goods will be adversely affected by any impact upon the date format (which term means the field configuration and/or the associated processing which contains the date information within any part of the software/system/product forming part of the goods) caused by the advent of the year 2000.
- 14 Currency
- 14.1.1 Notwithstanding the introduction of any unit of currency within the European Union (whether known as the "Euro" or otherwise) which would constitute legal tender in the United Kingdom for the payment of sums due under the Contract, all payments due to either party hereto (before or after 1st January 1999) under the terms of the Contract shall be paid in Sterling for so long as Sterling remains legal tender in the United Kingdom.
- 15 Work on Purchaser's Premises
- 15.1.1 Where any Order involves work being carried out on the Purchaser's premises the Supplier and its employee's agents and contractors shall observe all statutory rules and regulations and all of the Purchaser's rules and regulations. All personnel working on the Purchaser's premises shall report to the Purchaser's site manager before commencing work.
- 16 Miscellaneous
- 16.1.1 The Supplier will not without the prior written consent of the Purchaser in any way whatsoever advertise or publish the fact that the Supplier has contracted to supply to the Purchaser the goods or services herein mentioned.
- 16.1.2 The Order is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the contract without the prior written consent of the Purchaser.
- 16.3 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.
- 16.4 No waiver by the Purchaser of any breach of the contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 16.1.3 If any provision of these conditions is held by any competent authority to be invalid or unenforceable 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 thereby.
- 16.6 The construction validity and performance of this contract shall be governed by the Laws of England and any claim or dispute arising there from shall be subject to the jurisdiction of and be determined by the English Courts.