

WESSEX ADVANCED SWITCHING PRODUCTS LIMITED

CONDITIONS OF PURCHASE FOR GOODS AND SERVICES

1 INTERPRETATION

1.1 In these Conditions of Purchase:

"WASP Background IPR" means any intellectual property rights in the Specifications, designs or other documents provided by WASP for use in the manufacture of the Goods or the provision of the Services.

"Conditions" means these terms of purchase and (unless the context otherwise requires) includes any special terms agreed in Writing between WASP and the Supplier;

"Contract" means the contract for the sale and purchase of the Goods and/or the Services;

"Deliverables" means any documents, certificates, drawings, designs or other items to be delivered by the Supplier as part of the Services;

"Delivery Address" means the address stated in the Order;

"Goods" means the goods (including any instalment of the goods or any part of them) described in the Order;

"Foreground IPR" means any intellectual property rights in the Deliverables created by the Supplier in the course of providing the Services and any Specification produced by the Supplier specifically for the Goods to be supplied under the Contract;

"Order" means WASP's purchase order or other written instruction to buy Goods and/or Services, subject to these conditions;

"Price" means the price of the Goods and/or the Services as applicable;

"Specifications" includes any plans, drawings, data or other information relating to the Goods or the Services;

"Supplier" means the individual, firm or company selling the Goods and/or the Services;

"Supplier Background IPR" means all intellectual property rights in the Goods, the Services or the Deliverables other than the Foreground IPR and WASP Background IPR;

"Services" means the services (if any) described in the Order;

"Writing" and any similar expression, includes faxes and email.

"WASP" means Wessex Advanced Switching Products Limited (Company Number 03846820) whose registered office is C/O Rockwell Collins, 730 Wharfedale Road, Winnersh, Wokingham, England, RG41 5TP.

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 BASIS OF PURCHASE

- 2.1 The Order constitutes an offer by WASP to purchase the Goods and/or the Services subject to these Conditions.
- 2.2 These Conditions shall apply to a Contract to the exclusion of any other terms and conditions on which any quotation has been given to WASP or subject to which the Order is accepted or purported to be accepted by the Supplier.
- 2.3 The Order will be deemed accepted by the Supplier unless rejected by the Supplier in Writing within 7 days of its date at which time a Contract will be formed between WASP and the Supplier subject to these Conditions.
- 2.4 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of WASP and the Supplier.
- 2.5 No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgment or acceptance of order, specification or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely upon such terms and conditions.

3 PRODUCTION OF THE GOODS

- 3.1 The Goods shall be of the best available design, of the best quality, material and workmanship, be without fault in all respects and comply fully with the Order and any Specifications.
- 3.2 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.
- 3.3 WASP shall be entitled to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch and the Supplier shall provide WASP with all facilities reasonably required for inspection and testing, provided always that, notwithstanding any such inspection and testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under a Contract.
- 3.4 If as a result of inspection or testing WASP is not satisfied that the Goods will comply in all respects with the Contract and WASP so informs the Supplier within 7 days of inspection or testing the Supplier shall take such steps as are necessary to ensure compliance.
- 3.5 The Supplier shall issue a certificate of conformity with all Goods delivered, certifying their compliance with the Specifications.
- 3.6 The Goods shall be marked in accordance with WASP'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.
- 3.7 The Goods will be suitably marked with a legible and durable serial or batch number to ensure that all Products are fully traceable to the batch or day on which they were manufactured

4 PRICE

- 4.1 The Price of the Goods and the Services shall be stated in the Order and unless otherwise so stated:
 - 4.1.1 Prices for the Goods and the Services are exclusive of value added tax;
 - 4.1.2 Prices for the Goods include packaging, transport and the cost of insurance in transit, save to the extent inconsistent with any applicable Incoterm; and
 - 4.1.3 where an Incoterm is specified next to the price for a Goods, it shall include transport and all other taxes, export charges, duties and tariffs which are for the account of the Supplier under the specified Incoterm. Any additional charges not so included must be agreed with WASP prior to shipment.
 - 4.1.4 prices for the Services include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 4.2 No increase in the Price nor any extra charges shall be accepted by WASP.
- 4.3 WASP shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown on its own terms of sale.

5 TERMS OF PAYMENT

- 5.1 The Supplier may invoice WASP on or at any time after delivery of the Goods or performance of the Services and each invoice shall quote the number of the Order.
- 5.2 Unless otherwise stated in the Order WASP shall pay the Price of the Goods within 60 days of the date of receipt by WASP of a proper invoice or, if later, after acceptance of the Goods or Services in question by WASP. Payment shall not be of the essence of the Contract.
- 5.3 Without prejudice to any other right or remedy, WASP shall be entitled to set off against the Price any sums owed to WASP by the Supplier.
- 5.4 If any sum under the Contract is not paid when due, then, without prejudice to the parties' other rights under the Contract, that sum shall bear interest from the due date until payment is made in full, both before and after any judgment at 2% per annum over the base rate of Bank of Scotland base rate from time to time. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

6 DELIVERY OF GOODS

- 6.1 The Goods shall be delivered to the Delivery Address on the date or within the period stated in the Order in either case during WASP's usual business hours. The Supplier shall off-load the Goods at its own risk as directed by WASP.
- 6.2 Where the date of delivery of the Goods is to be specified after the placing of the Order the Supplier shall give WASP reasonable notice of the specified date.
- 6.3 The time of delivery of the Goods is of the essence of the Contract.
- 6.4 A packing note quoting the number of the Order, the part number, issue number and quantity of each Good delivered, and a certificate of conformity as required by clause

3.5, must accompany each delivery or consignment of the Goods and must be displayed prominently.

- 6.5 If the Goods are to be delivered by instalments the Contract will be treated as a single contract and not severable.
- 6.6 WASP shall be entitled to reject any Goods delivered which are not in accordance with the Specifications or any other aspect of the Contract and shall not be deemed to have accepted any Goods until WASP 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.
- 6.7 The Supplier shall supply WASP in good time with any instructions or other information required to enable WASP to accept delivery of the Goods.
- 6.8 WASP shall not be obliged to return to the Supplier any packaging or packing materials for the Goods whether or not any Goods are accepted by WASP.
- 6.9 If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, WASP reserves the right to take any one or more of the following remedies:
 - 6.9.1 claim damages for any additional costs, loss or expenses reasonably incurred by WASP which are in any way attributable to the Supplier's failure to deliver the Goods on the due date, including the costs of damages payable by WASP to its own customers due to the delay;
 - 6.9.2 cancel the Contract in whole or in part;
 - 6.9.3 refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make; and
 - 6.9.4 recover from the Supplier any expenditure reasonably incurred by WASP in obtaining the Goods in substitution from another supplier.
- 6.10 If Goods are delivered to WASP in excess of the quantities ordered, WASP shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.

7 RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the Goods shall pass to WASP upon delivery to WASP in accordance with the Contract.
- 7.2 The property in the Goods shall pass to WASP upon delivery unless payment for the Goods is made prior to delivery when it shall pass to WASP once payment has been made and the Goods have been appropriated to the Contract.

8 WARRANTIES AND LIABILITY

- 8.1 The Supplier warrants to WASP that for a period of 24 months from delivery the Goods:
 - 8.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier in Writing before or at the time the Order is placed;
 - 8.1.2 will be free from defects in design, material and workmanship;

- 8.1.3 will correspond with any relevant Specifications or sample including any standards specified in the Order (such as EN60945, EN60950 or AS9100, ISO9001); and
 - 8.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods.
- 8.2 Without limiting any other remedy, if any Goods are not supplied or performed in accordance with the Contract then WASP shall be entitled:
 - 8.2.1 to require the Supplier to repair the Goods or to supply replacement Goods in accordance with the Contract within 7 days; or
 - 8.2.2 at WASP's sole option and whether or not WASP 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 part of the Price which has been paid.
- 8.3 The Supplier warrants that the Services shall be provided:
 - 8.3.1 with reasonable skill and care;
 - 8.3.2 in accordance with the applicable Specifications; and
 - 8.3.3 in accordance with good industry practice.
- 8.4 Without limiting any other remedy, if any Services are not supplied or performed in accordance with the Contract then WASP shall be entitled to
 - 8.4.1 require the Supplier to re-perform the Services or re-deliver any Deliverables;
 - 8.4.2 refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - 8.4.3 where WASP has paid in advance for Services that have not been provided by the Supplier, to have such sums refunded by the Supplier.
- 8.5 The Supplier shall keep WASP indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include without limitation, loss of profit, loss of business, depletion of goodwill and like losses) loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by WASP as a result of or in connection with:-
 - 8.5.1 breach of any warranty given by the Supplier in relation to the Goods or the Services or any delay in their delivery;
 - 8.5.2 any liability under the Consumer Protection Act 1987 in respect of the Goods; and
 - 8.5.3 any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods.
- 8.6 The warranties and remedies in this clause 8 shall extend to any substituted or remedial Goods or Services provided by the Supplier.
- 8.7 WASP's rights under these Conditions are in addition to the statutory conditions implied by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.

9 TERMINATION

- 9.1 WASP may cancel the Order in respect of all or part only of the Goods or the Services by giving notice to the Supplier at any time prior to delivery or performance, in which event WASP's sole liability shall be to pay to the Supplier the Price for the Goods or Services in respect of which WASP has exercised its right of cancellation less the Supplier's net saving of cost arising from cancellation.
- 9.2 WASP may terminate the Contract without liability to the Supplier by giving notice to the Supplier at any time if:
- 9.2.1 the Supplier commits a material breach of any of the terms and conditions of the Contract; or
 - 9.2.2 any distress, execution, or other process is levied upon any of the assets of the Supplier; or
 - 9.2.3 the Supplier has a bankruptcy order made against him or makes an arrangement or composition with his creditors or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the Court for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any Court for the winding up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier; or
 - 9.2.4 the Supplier ceases or threatens to cease to carry on its business; or
 - 9.2.5 the financial position of the Supplier deteriorates to such an extent that in the opinion of WASP the capability of the Supplier to adequately fulfil its obligations under the Contract has been put in jeopardy.
- 9.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of WASP accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

10 PRODUCT SUPPORT

- 10.1 The Supplier shall supply spares accessories and replacement components for the Goods for at least 7 years after the supply of the Goods under the Contract. The price of

such spares shall be the Supplier's standard list prices for such spares or, if there is no list price, a reasonable price.

- 10.2 The Supplier recognises that WASP may need to place repeat orders for identical Goods to those ordered under the Contract. Accordingly, the Supplier agrees that it will not change without WASP's prior written agreement:

- 10.2.1 any specification for the Goods.
- 10.2.2 the manufacturing location of the Goods;
- 10.2.3 the manufacturing process for the Goods;
- 10.2.4 any tooling or equipment supplied by or purchased at the request of WASP;
or
- 10.2.5 the supplier of any raw materials or components used in the Goods (but without obligation to identify the supplier).

11 INTELLECTUAL PROPERTY

- 11.1 WASP authorises the Supplier to use WASP Background IPR, solely for the performance of its obligations under the Contract. Subject to this clause 11.1, the Supplier will not use and shall acquire no rights in respect of WASP Background IPR.
- 11.2 The Supplier authorises WASP to use the Supplier Background IPR in connection with its use, maintenance, repair and sale of the Goods and Services.
- 11.3 The Foreground IPR shall be the exclusive property of WASP and the Supplier assigns with full title guarantee to WASP all such copyright, design rights and other intellectual property for no further consideration, subject only to payment of the Price. The Supplier shall not disclose to any third party or use the Foreground IPR except to the extent that it is or becomes public knowledge through no fault of the Supplier or as required for the purpose of the Contract.
- 11.4 The Supplier warrants that, as far as it is aware, the materials used in the production of the Goods to the Specification and the Goods and the Deliverables, do not infringe or misappropriate any third party's intellectual property rights. The Supplier shall indemnify WASP against all liability, loss or cost (including reasonable legal fees) suffered or incurred by WASP as a result of any claim or allegation by a third party that WASP's use or sale of the Goods or the Deliverables infringes that third party's intellectual property rights, unless such infringement is attributable to know how, designs or specifications supplied by WASP.

12 CONFIDENTIALITY

Any information which WASP discloses relating to the Goods which is not in the public domain at the time of disclosure shall be confidential and shall not be disclosed by the Supplier to any third party or used for any purpose other than the purposes of this Agreement and the Supplier shall ensure that all its employees, agents and sub-contractors are subject to like obligations of confidentiality as bind the Supplier and shall ensure that they comply with this clause as if they were parties to the Contract.

13 FORCE MAJEURE

Neither the Supplier nor WASP shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control.

14 NOTICES

A 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 under this provision to the party giving the notice. In the absence of proof of earlier receipt, such notice shall be deemed to be served in the case of an inland letter 24 hours, in the case of any airmail letter 72 hours after proof of despatch or posting and in the case of e-mail or fax at 9:00 a.m. of the business day of the recipient party next following its despatch.

15 WAIVER AND SEVERANCE

15.1 Any indulgence granted by WASP to the Supplier and any failure by WASP to insist upon strict performance of these terms and conditions shall not be deemed a waiver of any of WASP's rights or remedies nor be deemed a waiver of any subsequent default by WASP.

15.2 The invalidity, illegality, voidness, unenforceability or unreasonableness in whole or in part of any clause in these Conditions shall not affect the validity of the remainder of such clause or these Conditions.

16 ASSIGNMENT

The Order is not assignable by the Supplier without the written consent of WASP and is between the Supplier and WASP as principals but WASP may without consent assign or sub-contract all or any of its rights and obligations hereunder.

17 GOVERNING LAW AND JURISDICTION

The interpretation and application of these Conditions shall be in accordance with English Law and both parties agree to submit to the exclusive jurisdiction of the English Courts.

18 THIRD PARTIES

The parties to the Contract do not intend that any terms of the Contract will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person that is not a party to it.