

## MULTIVAC TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

### 1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 16.6.

**Contract:** the contract between Multivac and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

**End User:** Multivac's customer who will be the ultimate recipient of the Goods.

**Goods:** the goods (or any part of them) set out in the Order.

**IPR:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Multivac:** Multivac UK Ltd registered in England and Wales with company number 01865375.

**Order:** Multivac's order for the Goods, as set out in Multivac's purchase order form, Multivac's written acceptance of the Supplier's quotation, or overleaf, as the case may be.

**Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by Multivac and the Supplier.

**Supplier:** the person or firm from whom Multivac purchases the Goods.

### 2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by Multivac to purchase the Goods in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing a written acceptance of the Order; and
- (b) the Supplier doing any act consistent with fulfilling the Order,

at which point the Contract shall come into existence.

2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

### 3. THE GOODS

3.1 Supplier will supply the Goods as specified in the Order. The Supplier shall comply with the performance criteria, milestones and factory and site acceptance tests as detailed in the Order. The Supplier is aware that Multivac supplies the Goods to End Users or incorporates the Goods into its own machinery which is to be installed or is already installed on a production line.

- 3.2 The Supplier warrants that the Goods shall:
- (a) correspond with their description and any applicable Specification;
  - (b) be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by Multivac expressly or by implication, and in this respect Multivac relies on the Supplier's skill and judgement;
  - (c) where they are manufactured Goods, be free from defects in design, material and workmanship and remain so for 24 months after delivery (in the case of spare and wear parts) and 24 months after Multivac confirms in writing that the Goods successfully passed the acceptance tests (in the case of machinery); and
  - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
  - (e) not infringe any third party's IPR.
- 3.3 The Supplier further warrants that any parts of the Goods repaired or replaced in accordance with clause 6.1 will be free of defects in design, material and workmanship for a period of 24 months after installation.
- 3.4 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.5 Multivac shall have the right to inspect and test the Goods at any time before delivery and shall have the right to attend the factory acceptance tests referred to in the Order.
- 3.6 If following such inspection or testing Multivac considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.2, Multivac shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.7 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and Multivac shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

#### **4. DELIVERY**

- 4.1 Delivery time is essential for Multivac so that it can meet its obligations to its own customers.
- 4.2 The Supplier shall comply with any milestone dates specified in the Order and shall deliver the Goods:
- (a) on the date specified in the Order, or, if no such date is specified, within 28 days of the date of the Order (**Delivery Date**);
  - (b) to Multivac's premises at Multivac House, Rivermead Drive, Swindon SN5 7UY or such other location as is set out in the Order, or as instructed by Multivac prior to delivery (**Delivery Location**); and
  - (c) during Multivac's normal business hours, or as instructed by Multivac.
- 4.3 Failure by the Supplier to deliver according to these Conditions shall entitle MULTIVAC to the remedies set out in clause 6.
- 4.4 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods,

where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

- (c) if the Supplier requires Multivac to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.5 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.6 The Supplier shall not deliver the Goods in instalments without Multivac's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Multivac to the remedies set out in clause 5.

## **5. SPARE, SERVICE AND TRAINING**

5.1 The Supplier will make best endeavours for the arrival of service technicians at the End User premises within the response times set out in the Order, in order to minimise disruption. Agreed technical cover, response times and hourly rates are included in the Order.

5.2 The Supplier guarantees the availability of spare and wear parts for a period of 10 years following delivery of the Goods. The parties expressly agree on a reduction of the Supplier's standard prices for all required spare and wear parts as set out in the Order. Standard prices may only be increased once per year and increases must be agreed in advance by Multivac in writing.

5.3 The Supplier will train the operating and maintenance personnel of the End-User in the operation and maintenance of the Goods. Further details as regards the training may be set out in the Order.

5.4 The training will be provided during assembly and commissioning or as specified in the Order.

5.5 On request, the Supplier will train Multivac technicians in the operation and maintenance of the Goods.

## **6. REMEDIES**

6.1 If the Goods are not delivered on the Delivery Date, or do not comply with the warranties set out in clause 3.2, then, without limiting any of its other rights or remedies, Multivac shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods (and the Supplier shall be responsible for all costs in connection with such repair or replacement including but not limited to packaging, freight, customs duties and transport insurance), or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any costs incurred by Multivac in obtaining substitute goods from a third party; and
- (f) to claim damages for any other costs, loss or expenses incurred by Multivac which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

6.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6.3 Multivac's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

## 7. TITLE AND RISK

- 7.1 Title in the Goods shall not pass to Multivac until the earlier of:
- (a) the Supplier receives payment in full for the Goods in which case title shall pass at the time of payment; or
  - (b) Multivac resells the Goods in which case title shall pass to Multivac immediately before the time at which such resale occurs.
- 7.2 Risk in the goods shall pass to Multivac on completion of delivery.

## 8. PRICE AND PAYMENT

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence. All prices are DDP (delivered duty paid at named destination) in accordance with ICC Incoterms® 2020
- 8.2 The price of the Goods is exclusive of amounts in respect of value added tax (VAT), but includes the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by Multivac.
- 8.3 Multivac shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 8.4 The Supplier may invoice Multivac for the Goods on or at any time after the completion of delivery.
- 8.5 Unless otherwise agreed:
- (a) where the Goods are spare or wear parts the Supplier may raise an invoice on delivery and Multivac shall pay such invoice within 30 days of the end of the month of receipt;
  - (b) where the Goods are machinery, Multivac shall pay the price as follows (subject always to receipt of a valid invoice):
    - (i) 30% on acceptance of an Order, payable 15 days after receipt of an invoice and, where requested, a bank guarantee (according to the wording specified by Multivac);
    - (ii) 60% payment on delivery of Goods (including all parts of it);
    - (iii) 10% after a successful site acceptance test, payable on the later of 30 days from end of following month of receipt of invoice and 90 days of the invoice date, whatever comes first.
- 8.6 Payment shall be made to the bank account nominated in writing by the Supplier.
- 8.7 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the HSBC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- 8.8 Multivac may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Multivac against any liability of Multivac to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

## 9. CUSTOMER MATERIALS

- 9.1 The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by Multivac to the Supplier (**Multivac Materials**) and all rights in Multivac material are and shall remain the exclusive property of Multivac. The Supplier shall keep Multivac Materials in safe custody at its

own risk, maintain them in good condition until returned to Multivac, and not dispose or use the same other than in accordance with Multivac's written instructions or authorisation.

## **10. INDEMNITY**

- 10.1 The Supplier shall keep Multivac indemnified against all liabilities, costs, expenses, damages and losses and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Multivac as a result of or in connection with:
- (a) any claim made against Multivac for actual or alleged infringement of a third party's IPR arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
  - (b) any claim made against Multivac by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
  - (c) any claim made against Multivac by a third party (including but not limited to the End User) arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 10.2 Nothing in these Conditions shall limit or exclude the liability of either party for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - (d) defective products under the Consumer Protection Act 1987;
  - (e) the indemnities contained in clause 10.1;
  - (f) the deliberate default or wilful misconduct of that party, its employees, agents or subcontractors; or
  - (g) any matter in respect of which it would be unlawful for a party to exclude or restrict liability.
- 10.3 Without prejudice to clause 10.2, neither party shall be liable to the other, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any indirect or consequential loss arising under or in connection with this agreement.
- 10.4 Without prejudice to clause 10.2 and clause 10.3, the Supplier's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to 150% of the total price paid or payable by Multivac under the Contract, whether or not invoiced to Multivac.
- 10.5 Without prejudice to clause 10.2 or clause 10.3, Multivac's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited as follows:
- (a) for non-payment of invoices for Goods purchased, to the amount unpaid; or
  - (b) for any other type of liability, to £10,000.
- 10.6 This clause shall survive termination of the Contract.

## **11. INSURANCE**

- 11.1 During the term of the Contract and for a period of five years thereafter, the Supplier shall maintain in force, with a reputable insurance company, product liability insurance if the amount of at least £10 million per claim, and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on Multivac's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## **12. CONFIDENTIALITY**

- 12.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its Goods and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 12.2 This clause 12 shall survive termination of the Contract.

## **13. MODERN SLAVERY**

- 13.1 As a demonstration of its commitment to the UK Modern Slavery Act 2015, Multivac require its suppliers to conduct their business in a manner which is consistent with that Act.
- 13.2 The Supplier undertakes that:
- (a) neither the Supplier nor any of its officers or employees, agents or subcontractors is aware of any circumstances within its supply chain that could give rise to an investigation relating to a Modern Slavery Act Offence;
  - (b) it shall comply with the principles of the Modern Slavery Act;
  - (c) it shall notify Multivac immediately if it becomes aware of or has reason to believe that it, or within its supply chain have breached or potentially breached any of the Supplier's obligations under this Clause.

## **14. TERMINATION**

- 14.1 Multivac may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. Multivac shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 14.2 Without limiting its other rights or remedies, Multivac may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - (b) the Supplier suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

- (c) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Supplier is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (d) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;
- (f) (being a company) the holder of a qualifying floating charge over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver;
- (g) (being an individual) the Supplier is the subject of a bankruptcy petition or order;
- (h) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (i) a person becomes entitled to appoint a receiver over the Supplier's assets or a receiver is appointed over the Supplier's assets;
- (j) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(b) to clause 14.2(i) inclusive;
- (k) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- (l) the Supplier's financial position deteriorates to such an extent that in Multivac's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (m) (being an individual) the Supplier dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

14.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

14.4 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect but for the avoidance of doubt shall include (but shall not be limited to) clauses 10, 11, 12, 13, 16.

## **15. FORCE MAJEURE**

15.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from an event, circumstance or cause beyond its reasonable control (Force Majeure Event).

15.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

15.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 30 Business Days, Multivac may terminate the Contract immediately by giving written notice to the Supplier, or at Multivac's discretion renegotiate the terms.

## 16. GENERAL

- 16.1 Assignment and other dealings.
- (a) Multivac may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
  - (b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Multivac.
- 16.2 Notices.
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be: delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by fax to its main fax number.
  - (b) Any notice shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; if sent by fax, at 9.00 am on the next Business Day after transmission.
  - (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
  - (d) A notice given under or in connection with the Contract is not valid if sent by email.
- 16.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 16.4 Waiver. A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 Third party rights. A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 16.6 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Multivac.
- 16.7 Governing law. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 16.8 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).