

Lucideon - Conditions of Purchase

Definitions

- 1.1 Company - Lucideon Limited.
- 1.2 Supplier - the company, firm or individual on whom the Company places an order for goods or services.
- 1.3 Order - the contract formed by the Supplier's acceptance of the Company's order in accordance with these conditions.
- 1.4 Goods - shall mean the goods and/or services specified in the Company's order.

Existence and Scope of Orders

- 2.1 The Company will have no liability in connection with any orders except only such as are made on the Company's order form in accordance with these conditions which represent the only conditions upon which the Company is prepared to purchase the Goods from the Supplier. No amendment or variation of the Order or these conditions shall be effective unless agreed by the Company in writing.
- 2.2 Any commencement of work or written acknowledgement (whether or not referring to conditions inconsistent with these conditions unless clearly stated on its face to be a counter-offer) in connection with any order given by the Company for the Goods shall constitute an unconditional acceptance of the order and these conditions.
- 2.3 Except as specifically agreed by the Company in writing the Order shall exclude all terms or conditions contained or referred to in any quotation given by the Supplier or elsewhere and all previous negotiations but shall not affect any statement or representation (written or oral) made by or on behalf of the Supplier in connection with the Order.

Prices

- 3 Unless otherwise agreed in writing by the Company, prices are fixed and firm for the duration of the Order inclusive of all charges including packaging, carriage, insurance and delivery but exclusive of any applicable Value Added Tax.

Payment

- 4.1 The Supplier's invoices shall clearly state the Company's order numbers and the description, quantity and delivery locations of the Goods and a separate invoice must be rendered for each individual consignment. Invoices not in accordance with these requirements will be rejected.
- 4.2 Unless otherwise agreed in writing, payments by the Company will be made by the end of the second month following the month of delivery.
- 4.3 The Company shall be entitled at any time to set off against any amounts owing to the Supplier under the Order any sums which have or may become due from the Supplier to the Company whether under the Order or on any other account whatsoever and whether or not any demand has been made for the payment of any such sums.

Quality and Condition

- 5 The Supplier warrants as separate conditions of the Order that all Goods supplied or to be supplied under the Order shall be new and unused, free from defects in design, materials and workmanship, of satisfactory quality and fit for the purpose for which they are intended and shall comply with all specifications, drawings, samples or other descriptions furnished or specified by the Company and in the case of services those services shall be performed with reasonable skill and care. These warranties are in addition to any obligations implied by law, trade usage or otherwise.

Delivery and Performance

- 6.1 Unless otherwise agreed in writing by the Company, the Supplier shall not deliver, manufacture or purchase any Goods or materials except as specified in the Order. The Company shall have no responsibility or liability to pay for Goods or materials not covered in the Company's Order.
- 6.2 The Supplier shall promptly advise of any difficulty or delay actual or expected in performance of the Order and its proposed remedial action.
- 6.3 The Goods shall be delivered not earlier or later than the times (which shall be of the essence of the Order) and at the places stated in the Order.
- 6.4 The Goods shall be adequately packed and protected against damage or deterioration in transit or storage.
- 6.5 Each delivery shall also be accompanied by an advice note which shall contain the Company's order number and the description, quantity and delivery location of the Goods.
- 6.6 If the Company requires special arrangements to be made because of failure by the Supplier to make deliveries in accordance with the Order, the Supplier shall comply with such requirements at its own expense. The Supplier shall also be responsible for any expenses incurred to deliver any incorrectly delivered items to the correct delivery location or to return any items delivered in excess of the quantities specified in the Order or any delivery schedules.

Inspection, Testing and Quality Assurance

- 7.1 All Goods although assumed to have been properly inspected and tested by the Supplier prior to delivery are subject to inspection and test by the Company, at its discretion.
- 7.2 The Supplier shall observe such quality and specification control procedures including testing, inspection, documentation and certification as the Company requests.
- 7.3 The Supplier shall, at the Company's request, permit or procure permission for representatives of the Company, its customers and other organisations to carry out such inspections and assessments (including the taking of samples) as they request in connection with any Goods and any processes carried out in relation to them including quality assurance systems and procedures.
- 7.4 The Company's right to reject any Goods shall not be affected by the carrying out or any failure to carry out any inspection or testing of the Goods or any approval given by or on behalf of the Company or by any payment being made for them.

Rejection and Other Rights

- 8.1 Without prejudice to any other of its rights, in case of any early, late, partial, excessive, defective or otherwise incorrect delivery or performance or any failure by the Supplier to comply with the Order and these conditions the Company shall be entitled, at its discretion, to exercise some, all or any of the following rights, namely:

- 8.1.1 to reject such delivery or performance and, where any Goods so rejected are the same as other goods supplied by the Supplier which are held by the Company at any location, to reject those goods also;
- 8.1.2 to require the Supplier at its expense to immediately supply in substitution for any Goods, which the Company notifies the Supplier do not conform to the Order or those conditions, goods or services which do so conform or, at the Company's option, to carry out repairs or remedial work;
- 8.1.3 at the Supplier's expense, to carry out or have carried out any work which the Company considers necessary to conform any Goods to the Order.
- 8.2 The Supplier shall compensate and indemnify the Company against any loss or damage (including any handling, labour or administration charges and the cost of carrying out any work) arising from any failure by the Supplier to comply with the Order or other instructions given by the Company.
- 8.3 Goods rejected by the Company shall be collected by the Supplier within thirty days of notice of rejection being despatched by the Company. Pending collection the goods shall be held at the expense and risk of the Supplier who shall also pay all expenses incurred by the Company in packing, handling and sorting rejected Goods. If the Supplier fails to collect the rejected Goods within thirty days of notice of rejection being despatched by the Company the Company reserves the right, at the Supplier's expense, to destroy or otherwise dispose of the rejected Goods in any manner it thinks fit without liability to the Supplier.

Passing of Title and Risk

- 9 Title and risk in the Goods shall pass to the Company on delivery at the location stated in the Order except to the extent that payment for any Goods is made prior to delivery in which event title in them shall pass to the Company when payment has been made and the Goods concerned have been appropriated to the Order.

Company's Property, Etc

- 10.1 The Supplier in relation to any Goods held by the Supplier in which title has passed to the Company or any goods or materials of the Company to which the Order requires the Supplier to carry out any processing, repairing or other service ("Company's Property") shall:
 - 10.1.1 bear all risks of loss of or damage to and adequately insure the Company's Property whilst in the Supplier's possession or control;
 - 10.1.2 ensure that the Company's Property is marked with such indications of ownership as the Company directs and is kept in good condition;
 - 10.1.3 not permit the Company's Property to be removed from the Supplier's premises;
 - 10.1.4 not use or permit the use of the Company's Property except as the Company directs;
 - 10.1.5 permit or procure permission for the Company or its representatives to enter at any reasonable time any premises where the Company's Property is located for the purpose of inspecting it;
 - 10.1.6 immediately deliver the Company's Property on demand in good condition and permit or procure permission for the Company to take possession of the same;
 - 10.1.7 not permit any lien or other encumbrance to exist.
- 10.2 The Supplier shall treat as confidential (and, in particular, not use except for the purpose of the Order or disclose to any third party) any drawings, specifications, technical data, computer software (including source codes or similar material) or the like prepared by the Supplier or made available by the Company in connection with the Order.
- 10.3 The ownership of any patent, design, copyright or other industrial property rights in connection with any Goods and all drawings specifications, technical data, computer software (including source codes and similar material) or the like prepared by or on behalf of the Company in relation to the Goods shall be and remain vested in the Company.
- 10.4 The Supplier shall be responsible for any errors or omissions in any particulars supplied by it, whether or not approved by the Company, except only to the extent that such errors or omissions are due to inaccurate information supplied in writing by the Company and such information was not supplied subject to confirmation by the Supplier.

Indemnity and Insurance

- 11.1 The Supplier shall forthwith upon demand indemnify the Company against any loss, damage or injury to the Company and from and against any claim in respect of loss, damage or injury made against the Company by any third party or parties and any costs and expenses arising in connection therewith which result from the Supplier's performance or purported performance of or failure to perform the Order whether negligent or otherwise and, in particular, but without prejudice to the generality of the foregoing which result from any defect in the Goods or their materials, construction, workmanship or (except to the extent that the Company is responsible for design) design.
- 11.2 The Supplier shall at all times insure and keep itself adequately insured with a reputable insurance company against all insurable liability under the Order and, in particular its liabilities under condition 11.1, and shall, on request, provide the Company with evidence as to the existence and sufficiency of such insurance.
- 11.3 The Supplier shall provide all facilities, assistance and advice required by the Company or its insurers for the purpose of contesting or dealing with any action, claim or demand arising out of the Supplier's performance or purported performance of or failure to perform the Order.

Warranty

- 12 The Supplier shall repair or replace, at the Company's option, any Goods in which any defects or materials, workmanship or (except solely to the extent that the Company is responsible for design) design arises during a period of twelve months (or such other period as the Company may specify) from delivery of the Goods, fair wear and tear excepted, and shall reimburse any losses or any labour or other costs incurred by the Company by reason of such defect.

Patents and Other Rights

- 13 The Supplier shall indemnify the Company against all actions, claims, demands, costs, charges and expenses incurred by the Company in connection with any infringement or alleged infringement in any country of the rights of any third party claimed under or in connection with any patent, registered design, trade mark, copyright, design right, breach of confidence or other industrial property right arising from the sale or use of any Goods provided by the Supplier except only to the extent that such infringement results exclusively from a design or written instruction given by the Company and shall, at the Company's request, defend or assist in defending, at the Supplier's expense, any action against the Company or any person to whom the Goods (or products incorporating them) have been supplied.

Termination at Option of Company

- 14 Performance of any Order may be terminated by the Company, at its option, in whole or in part, at any time by written notice to the Supplier (notwithstanding the existence with respect to the Supplier of any force majeure circumstances). In such event the Company's liability shall in no circumstances exceed the price of the Goods delivered and accepted by the Company plus the reasonable cost of materials purchased by the Supplier with the written authorisation of the Company to the extent, in each case, not previously paid for, provided that no payment for any such materials shall be made unless the company has satisfied itself as to its condition, quality and conformity with the Company's purchase authorisation and the Supplier has, if the Company so requires, delivered such materials to the Company.

Termination for Default or Insolvency of Supplier

- 15.1 The Company may at its discretion, without prejudice to any other remedy, by giving the Supplier written notice at any time or times, suspend its performance of or (whether or not such performance has previously been suspended) terminate the Order in whole or in part, if the Supplier:
 - 15.1.1 fails to comply with any provision of the Order or of any other agreement with the Company or fails to make progress so as in the reasonable opinion of the Company to endanger the performance of the Order and in either of such cases such failure is irremediable or if remediable the Supplier does not remedy the same to the Company's satisfaction within a period of ten (10) days after the date on which the Company has given the Supplier written notice thereof; or
 - 15.1.2 becomes insolvent, has a receiver, manager, administrative receiver, administrator or trustee in bankruptcy appointed in respect of any of its undertaking, assets or income, is the subject of any bankruptcy order or has any petition presented to any court or resolution passed for its winding up, whether compulsorily or voluntarily, or is dissolved, has any distraint or execution levied on any of its assets, enters into any composition or arrangement with its creditors or suffers any similar action in consequence of debt under the laws of any jurisdiction, or the Company bona fide believes that any of the foregoing events may occur.
- 15.2 No failure or delay by the Company to exercise its rights in respect of any default under the Order by the Supplier shall prejudice the Company's rights in connection with the same or any subsequent or other default.

Force Majeure

- 16 Neither party shall be responsible to the other by reason of failure to perform under an Order arising from causes beyond the control of the party concerned including fire, explosion, breakdown, labour dispute or acts or omissions of any authority or governmental agency provided that the Company shall be entitled to obtain elsewhere Goods or services covered by the Order for so long as such circumstances prevail and to reduce to that extent without liability to the Supplier its purchases under the Order.

Modifications

- 17 The Company reserves the right, at any time by thirty (30) days written notice to make changes in the specifications applicable to the Goods, the method of packing or the times or places for delivery or performance and if any such changes affect the cost or performance of the Order, the Company may make such adjustment as it considers equitable in the purchase price or the delivery schedule or both.

Statutory Requirements

- 18 The Supplier undertakes that the Goods are safe and without risk to health when properly used and comply in all respects with all relevant statutes regulations by laws and standards in force at the date of delivery. The Supplier shall, in particular, supply in respect of the Goods full information about their use and proper evidence of all tests and examinations and research relating to them.

Assignment and Sub-Contracting

- 19 The Supplier shall not without the prior written consent of the Company assign or sub-contract any of its obligations under the Order in whole or in part.

Publicity

- 20 Neither the Order nor any details thereof or the Company's name or its customer's name shall be used by the Supplier for advertisement or publicity purposes without the Company's prior written consent.

Notices

- 21 Any notice 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.

Law and Jurisdiction

- 22 The law applicable to the Order shall be English law and the Supplier consents to the jurisdiction of the English courts in all matters relating to the Order.

Lucideon Limited
Company Number 1960455
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