

TRANSXL INTERNATIONAL LIMITED GENERAL CONDITIONS OF PURCHASE

1 INTERPRETATION

1.1 In these Conditions:

- "Buyer" means TRANS XL INTERNATIONAL LIMITED whose Registered Office is at Thornhill South Marston Swindon Wiltshire SN3 4TA registered in England under Number 1168886
- "Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and the Seller
- "Contract" means the contract for the sale and purchase of the Goods and where appropriate the supply and acquisition of associated Services
- "Delivery Address" means the address stated on the Order
- "Goods" means the goods (including any installation of the goods or any part of them) described in the Order (and where the context so requires shall include associated services to be supplied to the Buyer in accordance with these conditions
- "The Health and Safety Regulations" means The Health and Safety at Work Act 1974, The European Communities Act 1972, The European Community Directive 1993/68EC and all statutory instruments regulations and other subsidiary or subordinate legislation made pursuant to any of them and all approved codes of practice issued pursuant thereto.
- "Order" means the Buyer's purchase order to which these Conditions are annexed.
- "Price" means the price of the Goods and/or the charge for the Services
- "Seller" means the person so described in the Order who agrees to supply the Goods pursuant to these terms
- "Specification" includes any plans, drawings, data or other information relating to the Goods or Services
- "Writing" includes telex, cable, facsimile transmission, E:Mail and comparable means of communication.

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 the Buyer to purchase the Goods and/or acquire the Services subject to these Conditions.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller.
- 2.3 The Order will lapse unless unconditionally accepted by the Seller in Writing within 7 days of its date.
- 2.4 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

3 SPECIFICATIONS

- 3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in Writing by the Buyer.
- 3.2 Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
- 3.3 The Seller shall comply with all applicable laws and regulations relating to the sale of the Goods including those relating to the nature method of manufacture storage safety delivery packaging or labelling thereof and shall notify the Buyer of any change in the laws and regulations relating thereto in the country of origin of the Seller if the principal place of business of the Seller is not in Great Britain or Eire and shall without prejudice to the generality of the foregoing comply with all Health and Safety legislation.
- 3.4 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 3.5 If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the Contract, and in particular but without limiting the generality of the foregoing clause 3.3 above, and the Buyer so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 3.6 The Goods shall be marked in accordance with the Buyer'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.

4 PRICE OF THE GOODS AND SERVICES

- 4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:
- 4.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoice); and
- 4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies other than value added tax.
- 4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing.
- 4.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

5 TERMS OF PAYMENT

- 5.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.
- 5.2 Unless otherwise stated in the Order, the Buyer shall pay the Price of the Goods (in pounds sterling) and any relevant Services within 30 days after the end of the month of receipt by the Buyer of a proper invoice or, if later, after acceptance of the Goods or Services in question by the Buyer.
- 5.2 The Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.

6 DELIVERY

- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours.
- 6.2 Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of Order, the Seller shall give the Buyer reasonable notice of the specified date.
- 6.3 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.
- 6.4 A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently.
- 6.5 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.
- 6.6 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until the Buyer 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 Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.
- 6.8 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.
- 6.9 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, the Buyer shall be entitled:-
- 6.9.1 to cancel the Contract and suspend acceptance of any further deliveries
- 6.9.2 to commence proceedings for the recovery of any costs including consequential or economic loss arising from such failure
- 6.9.3 to deduct from the Price or (if the Buyer has paid the Price) to claim from the Seller by way of liquidated damage for delay five per cent of the Price for every week's delay, up to a maximum of twenty-five per cent.

7 RISK AND PROPERTY

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery or collection by the Buyer in accordance with the Contract.
- 7.2 The property in the Goods shall pass to the Buyer upon delivery or collection, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Contract, whether or not such payment shall have been made against an invoice issued by the Seller relating to the Goods.
- ## 8 WARRANTIES AND LIABILITY
- 8.1 The Seller warrants to the Buyer that for NEW only, 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 Seller or made known to the Seller in Writing 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 Specification or sample and
- 8.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods and in particular but without limiting the generality of the foregoing will comply with all Health and Safety Legislation, including but without limiting the generality of the foregoing The Electromagnetic Compatibility Regulations The Supply of Machinery (Safety Regulations) and The Control of Substances Hazardous to Health Regulations.
- 8.1.5 do not contain any substance whatsoever which may cause injury to the health or welfare of any employee of the Buyer or any Purchaser of the goods from the Buyer or any employee of its own
- 8.2 The seller warrants for USED equipment and the seller's duty of care:
- 8.2.1 The equipment is in production worthy condition, complete with all necessary components, unless otherwise confirmed and agreed with the buyer in writing.
- 8.2.2 The Seller shall keep the Goods in good state and condition of repair and free from rust or oxidation (and shall take proper care of them and shall not permit the same to deteriorate to a condition which is less favourable than as at the date of the Contract) until such time as the Goods are transported to the buyer either Ex Works or Delivered notwithstanding the time at which either the risk in or the title to the Goods shall be deemed to have passed to the Buyer hereunder.
- 8.2.3 The purchase must include all necessary software to control the equipment along with back up media and any Licence agreements. Any battery backed device is to be kept in good order until equipment is despatched.
- 8.2.4 No parts or items to be removed from the equipment whilst awaiting despatch. Any dismantling to be carefully done with good marking of the parts to allow for the proper reinstallation especially the electrical wiring. No cutting is acceptable without full agreement in writing by the buyer.
- 8.2.5 The equipment will be insured by the seller for all risks, including the correct replacement of any damaged parts since the inception of this contract, up to despatch and whilst on seller's land.
- 8.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the Buyer shall be entitled:
- 8.3.1 to require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days or
- 8.3.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid
- 8.4 The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with breach of any warranty given by the Seller in relation to the Goods or the Services and in particular without limiting the generality of the foregoing the warranty contained in clause 8.1.4 hereof.
- 8.4.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;
- 8.4.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;
- 8.4.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods and
- 8.4.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services
- 8.5 Neither the Seller nor the Buyer 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 beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control
- 8.5.1 Act of God, explosion, flood, tempest, fire or accident
- 8.5.1 war or threat of war, sabotage, insurrection, civil disturbance or requisition
- 8.5.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority
- 8.5.4 import or export regulations or embargoes
- 8.5.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees or either the Seller or the Buyer or of a third party)
- 8.5.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery
- 8.5.7 power failure or breakdown in machinery
- 8.6 The Seller agrees that it will take all necessary steps to ensure the Goods are safe and without risk to the health or well being when used and that the Buyer is relieved from any duty under the Health & Safety Legislation in relation to the Goods which shall fall upon the Seller and the Seller shall indemnify the Buyer accordingly.

9 TERMINATION

- 9.1 The Buyer shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Seller the Price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
- 9.2 The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:
- 9.2.1 the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller or
- 9.2.2 the Seller ceases, or threatens to cease, to carry on business or
- 9.2.3 the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

10 GENERAL

- 10.1 The Order is personal to the Seller and the Seller 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.
- 10.2 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.
- 10.3 No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.4 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.
- 10.5 The Contract shall be governed by the laws of England, and the Seller agrees to submit to the non-exclusive jurisdiction of the English courts.