



## CCS TERMS AND CONDITIONS OF PURCHASE

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions:

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

**Conditions:** means the terms and conditions set out in this document as amended from time to time in accordance with clause 13.4.

**Contract:** means this Contract between CCS and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

**CCS:** means Cambridge Communication Systems, of Victory House, Vision Park, Chivers Way, Cambridge CB24 9ZR (registered in England and Wales with company number 07266974).

**Delivery Date:** means the date specified in the Order, or, if none is specified, within 14 days of the date of the Order.

**Delivery Location:** means the address for delivery of Goods as set out in the Order.

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

**Order**" means CCS's order for the Goods, as set out in CCS's written acceptance of the Supplier's quote, or overleaf, as the case may be.

**Specification:** means any specification for the Goods, including any related plans and drawings that are agreed by CCS and the Supplier.

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

#### 1.2 Interpretation:

- a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted;
- any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- a reference to **writing** or **written** includes faxes and emails.

### 2 BASIS OF CONTRACT

2.1 These Conditions apply to this 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 CCS 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 this 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 The Supplier shall ensure that the Goods shall:
- a) correspond with their description and any applicable Specification;
  - b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by CCS expressly or by implication, and in this respect CCS relies on the Supplier's skill and judgement;
  - c) be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
  - d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 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 this Contract.
- 3.3 CCS may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing by CCS.
- 3.4 If following such inspection or testing CCS considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, CCS shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 CCS may conduct further inspections and tests after the Supplier has carried out its remedial actions.

### **4 DELIVERY**

- 4.1 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, 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 CCS 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.
- 4.2 Unless otherwise instructed by CCS, the Supplier shall deliver the Goods on the Delivery Date, at the Delivery Location, and during CCS's normal business hours.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 4.4 The Supplier shall not deliver the Goods in instalments without CCS'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 CCS to the remedies set out in clause 5.

## **5 REMEDIES**

5.1 If the Goods are not delivered on the relevant Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, CCS may exercise any one or more of the following remedies:

- a) to terminate this 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, 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 CCS in obtaining substitute goods from a third party; and
- f) to claim damages for any other costs, loss or expenses incurred by CCS which are in any way attributable to the Supplier's failure to carry out its obligations under this Contract.

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

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

## **6 TITLE AND RISK**

6.1 Title in the Goods shall pass to CCS on the earlier of CCS's payment for such Goods or on completion of delivery.

6.2 Risk in the Goods shall pass to CCS on completion of delivery.

## **7 PRICE AND PAYMENT**

7.1 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 this Contract came into existence.

7.2 The price of the Goods:

- a) excludes amounts in respect of value added tax (VAT), which CCS shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- b) includes the costs of packaging, insurance and carriage of the Goods.

7.3 No extra charges shall be effective unless agreed in writing with CCS.

7.4 The Supplier may invoice CCS for the price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the

invoice includes the date of the Order, the invoice number, the Supplier's VAT registration number and any supporting documents that CCS may reasonably require.

- 7.5 CCS shall pay correctly rendered invoices within 30 days of the end of the month in which the invoice is received. Payment shall be made to the bank account nominated in writing by the Supplier.
- 7.6 If a party fails to make any payment due to the other under this Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 1% per annum above the Bank of England'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.
- 7.7 CCS may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to CCS against any liability of CCS to the Supplier.

## 8 CCS MATERIALS

- 8.1 The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, data and Order information supplied by CCS to the Supplier ("**CCS Materials**") are confidential and all rights in CCS material are and shall remain the exclusive property of CCS. The Supplier shall keep CCS Materials in safe custody at its own risk, maintain them in good condition until returned to CCS and not dispose or use the same other than in accordance with CCS's written instructions or authorisation and as necessary to perform this Contract.

## 9 INDEMNITY

- 9.1 The Supplier shall keep CCS indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by CCS as a result of or in connection with:
- a) any claim made against CCS for actual or alleged infringement of a third party's intellectual property rights 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 CCS 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 CCS by a third party 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 this Contract by the Supplier, its employees, agents or subcontractors.

## 10 LIMITATION OF LIABILITY

- 10.1 Nothing in this Contract shall exclude either party's liability in relation to:

- a) death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors;
- b) fraud or fraudulent misrepresentation; or
- c) any other liability that cannot be excluded or limited by law.

10.2 Subject to clause 10.1:

- a) CCS shall not be liable to the Supplier for any special, indirect or consequential loss; and
- b) CCS's total aggregate liability arising under or in connection with this Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to the fees payable by CCS to the Supplier under the Order to which the claim relates.

## 11 TERMINATION

11.1 CCS may terminate this 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 this Contract. CCS 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.

11.2 Without affecting any other right or remedy available to it, either party may terminate this Contract with immediate effect by giving written notice to the other party if:

- a) the other party commits a material breach of any term of this Contract which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified to do so;
- b) the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract; or
- c) that party has a receiver or administrative receiver appointed over it or over any part of its business or assets or pass a resolution for winding up (except for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect, or becomes subject to an administration order or enters into any voluntary arrangement with its creditors, or it ceases or threatens to cease to carry on business.

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

11.4 Clauses 9, 10 and any other clause of this Contract that expressly or by implication survives termination of this Contract shall continue in full force and effect.

## 12 FORCE MAJEURE

12.1 Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance continues for two months, the party not affected may terminate this Contract by giving 30 days' written notice to the affected party.

**13 GENERAL**

- 13.1 Except in the event of a business or share sale, neither party may assign, transfer, charge, or sub-contract its rights or obligations under this Agreement without the written consent of the other.
- 13.2 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.3 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.
- 13.4 Except as set out in these Conditions, no variation of this Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by CCS.
- 13.5 No failure or delay by a party to exercise any right or remedy provided under this 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.
- 13.6 If any provision or part-provision of this 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 this Contract.
- 13.7 Any notice under this Contract must be in writing and must be by either email to a director or officer of the respective party, delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Contract or such other address as may have been notified by that party for such purposes. A notice delivered by hand will be deemed to have been received when delivered (or if delivery is not in normal business hours, at 9:00 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post will be deemed to have been received at the time at which it would have been delivered in the normal course of post.
- 13.8 No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- 13.9 This Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 13.10 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.