

TERMS AND CONDITIONS OF PURCHASE

This Agreement is made between **Spectronic Denmark A/S**, a company incorporated in Denmark, whose address is Haraldsvej 64B, DK-8960, RANDERS SØ, Denmark and company registered number is 13449848 ("**Buyer**");

and

the named recipient company ("**Supplier**") of the Order

Supplier and Buyer shall be known individually as "**Party**" and collectively as the "**Parties**".

1. Agreement

1.1 Supplier shall provide the Works to Buyer as agreed to from time to time by the Parties pursuant to Orders on the terms set out herein ("**Terms**"). Each Order shall include a reference to, and be subject to these terms and conditions to the exclusion of any other terms that Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2. Ordering Process

2.1 Supplier will procure all components necessary to fulfil Forecasts (if supplied) and Orders issued in accordance with this Agreement and ensure sufficient capacity is available to achieve the quantities and delivery dates specified in such Forecasts and Orders. Forecasts are for planning purposes only and do not create a commitment on the part of the Buyer.

2.2 The Order constitutes an offer by Buyer to purchase the Works from Supplier in accordance with these Terms.

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

2.3.1 Supplier issuing written acceptance of the Order; or

2.3.2 any act by Supplier consistent with fulfilling the Order, at which point an Agreement shall come into existence.

2.4 If there is a conflict of terms the order of precedence shall be:

2.4.1 The typewritten provisions on the face of the applicable accepted Order;

2.4.2 These Terms of purchase;

2.4.3 Any appendices, program schedules or other written agreements attached to these Terms as agreed between the Parties.

2.5 Supplier shall accept all Orders that are placed consistent with Buyer's Forecasts and otherwise in accordance with the lead-times as agreed by the Parties. In the event that Supplier is unable to meet the delivery date set forth in an Order because the demand under the Order exceeds the previously Forecasted demand or if within the Forecast but the delivery date is shorter than the lead-time, the Parties shall negotiate in good faith to resolve the matter. Supplier will accommodate Orders that are within 25% of the previously Forecasted demand.

2.6 Supplier will supply the Works strictly in accordance with Buyer's requirements as detailed in the Order. Buyer may at any time request changes in writing relating to the Order, including changes in the drawings or specifications, method of shipment, quantities, packing or time or place of delivery. If such changes result in an increase in cost of, or time required for, performance of the Order an equitable adjustment will be made to the price, delivery schedule or both. Any such claim or adjustment must be approved by Buyer in writing before Supplier proceeds with such changes.

3. General

3.1 Any notice or demand in connection with the Agreement will be in writing and may be delivered by hand, by prepaid registered first class post or other registered next working day delivery service, by commercial courier or by email, addressed to the recipient at its registered office (or such other address or person which the recipient has notified in writing to the sender in accordance with this clause).

3.2 The notice, demand or communication will be deemed to have been duly served:

3.2.1 if delivered by hand, at the time of delivery;

3.2.2 if sent by prepaid first class post or other next working day delivery service, on the date that delivery is registered;

3.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or

3.2.4 if sent by email, on the date of acknowledgement by personal email reply.

3.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

3.4 This Agreement is entered into by Supplier on the one side and Buyer on the other side, and only these Parties derive rights and obligations from the Agreement and are entitled to institute legal proceedings against each other in relation to any non-compliance of the Agreement, including for the avoidance of doubt in relation to any Order entered into hereunder.

3.5 If any provision of this Agreement or an Order is found invalid or unenforceable, the remaining provisions will be given effect as if the invalid or unenforceable provision were not a part of this Agreement or the Order (as the case may be).

3.6 Supplier shall not assign the benefit or delegate or subcontract the burden of this Agreement or any Order (whether in whole or in part) without the prior written consent of Buyer.

3.7 Neither this Agreement nor an Order may be varied or amended except in writing and signed by a duly authorised officer of each Party.

3.8 The headings contained in this Agreement and an Order are for reference only and shall not be used in its construction or interpretation.

3.9 References to any gender includes any other gender and the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.

3.10 Reference to any statute, enactment, ordinance, order, regulation or other similar instrument shall be construed to include a reference to the statute, enactment, ordinance, order, regulation or instrument as from time to time amended, extended, re-enacted or consolidated and all statutory instruments, orders, regulations or instruments made pursuant to it.

3.11 No failure or delay by either Party to exercise any right, power or remedy under this Agreement will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

3.12 This Agreement 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 Danish law with the exclusion of the United Nations Convention on the International Sale of Goods (CISG).

3.13 Each Party irrevocably agrees that the Danish courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement, including any disputes regarding the subject matter, formation, existence, validity or termination thereof.

3.14 Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes and regulations and have and maintain throughout the term of this Agreement its own policies and procedures to ensure its compliance.

4. Import/Export

- 4.1 The Works may be subject to applicable export or import laws and regulations worldwide (collectively, "**Export/Import Law**").
- 4.2 Supplier agrees to comply strictly with all Export/Import Laws applicable to the Works. Supplier shall promptly notify Buyer of any authorisation requirements under Export/Import Laws that may apply to delivery of the Works to Buyer site(s).

5. FAR/DFARS/DEFCONs

- 5.1 Any FAR/DFARS/DEFCONs clauses listed or referred to in the Order are incorporated in the Order by reference with the same force and effect as if they were included in full text and with such amendments to the applicable definitions necessary to create legal relationships between Buyer and Supplier identical to, but not dependent on, the relationship the FAR, DFARS and DEFCONs intend to establish between the "Government" and a "Contractor."

6. The Works

- 6.1 Supplier warrants that:
 - 6.1.1 it shall use all best skill and care in providing the Works to Buyer and shall perform its obligations in accordance with this Agreement and the Order;
 - 6.1.2 title to the Works ordered under the Order shall transfer in accordance with clause 6.6.1 free from any security interest or other lien or encumbrance;
 - 6.1.3 it has the rights to grant the licence rights set out in this Agreement and in the Order;
 - 6.1.4 that the Works are of good quality, material and workmanship in accordance with best industry practice;
 - 6.1.5 the Works are and will be fit for their intended purpose and use including any purpose and use made known to Supplier by Buyer;
 - 6.1.6 the Works are free from defects in design, materials and workmanship and hazards to health;
 - 6.1.7 the Works are new and not used, refurbished, repaired or reconditioned and not of an age that deteriorates or impairs their usefulness, safety or operation;
 - 6.1.8 the Works do not infringe the rights of any third party;
 - 6.1.9 no Works, or part or component thereof, or any material supplied hereunder shall be counterfeit.
- 6.2 Supplier will at no additional fee or sum for the period of 2 years from delivery, provide the warranties set out in clause 6.1.
- 6.3 Supplier shall deliver the Works CIP Incoterms® 2020 to the delivery address stated on the Order unless otherwise specified in the Order. Upon delivery of the Works by Supplier to Buyer, Buyer (or Supplier at the request of Buyer) may perform an Acceptance Test upon such Works. The Works shall be deemed to have been accepted when notified by Buyer in writing.
- 6.4 No charge shall be made for attendance at any Acceptance Test. Where applicable, Buyer shall notify Supplier in writing as soon as reasonably practicable after the Works pass the Acceptance Tests.
- 6.5 Without prejudice to Buyer's right to terminate pursuant to clause 12.1, if the Works fail to pass any Acceptance Tests or repeat Acceptance Tests, Supplier shall notify Buyer that the Acceptance Tests have not been passed and Buyer may:
 - 6.5.1 require Supplier to conduct, and Supplier shall immediately conduct, free of charge all such reasonable alterations or Modifications to the Works including but not limited to any that the Buyer shall in the circumstances judge necessary to enable repeat Acceptance Tests to be passed and Supplier shall subject the Works to repeat Acceptance Tests as soon as possible and in any event no later than 15 days after receipt of such notice from Buyer; or
 - 6.5.2 require Supplier to take the actions specified in clause 6.5.1 again; or
 - 6.5.3 accept the Works proposed to be used by Supplier "as is" subject to a reduction in the charges which accurately reflects both the reduced functionality and performance of, and any reduced costs of developing, the Works.
- 6.6 Supplier:
 - 6.6.1 agrees that title to the Works shall pass to the Buyer on delivery unless otherwise agreed in writing; and
 - 6.6.2 grants a world wide, royalty free, perpetual, irrevocable, non-transferable licence to use, distribute and onward develop the software and any utilisation rights of the Works to Buyer) upon delivery or payment, whichever is the earlier. Supplier shall bear the risk of loss and damage to the Works until they are delivered (and off loaded) in conformity to the Order at Buyer's destination specified in the Order.
- 6.7 When delivering Works that contains software to Buyer, Supplier shall deliver all of the following:
 - 6.7.1 the object code for the software;
 - 6.7.2 the source code for the software;
 - 6.7.3 all Developments and Documentation relating to the software;
 - 6.7.4 copies of all applications and tools used in the creation or development of the software;
 - 6.7.5 any password and encryption details necessary to access the software or its source code; and
 - 6.7.6 full details of the software, including full name and version details, design information including module names and functionality, the type of media on which the software is provided, details of any commands required to install and make a backup copy of the software, any compression used in packaging the software, and details of operating systems on which the software runs.
- 6.8 Supplier may not deliver the Works by separate instalments unless agreed in writing by Buyer.
- 6.9 Time for the performance of all obligations of Supplier under this Agreement and Orders is of the essence and Supplier shall complete its obligations in accordance with any delivery date, implementation or project plan agreed between the Parties. If Supplier becomes aware of any matters which may affect the performance of Supplier's obligations under this Agreement, or if it has reason to anticipate the occurrence of such matters, Supplier shall promptly notify Buyer of the matter and the anticipated duration of their impact. The Parties will discuss in good faith a resolution of the matter.

7. Developments

- 7.1 The Parties agree that all Intellectual Property Rights in Buyer Data are exclusively vested in Buyer and that Supplier shall not gain any rights to any Buyer Data or any computer programs (or Modifications relating thereto) proprietary to Buyer nor, except to the extent expressly licensed for use by Supplier in this Agreement, have any right to use or make any Modification to any such items.
- 7.2 Supplier shall observe and perform all requirements and terms as requested by and notified to Supplier by or on behalf of the proprietors of any third party software specified in the Order ("**Third Party Software**") and shall not cause or permit Supplier or any sub-contractor of Supplier to cause Buyer to breach any of the obligations on the licensee's part specified in any contract for the provision of Third Party Software.
- 7.3 The Parties agree that Supplier shall not gain title to nor, except to the extent licensed by Buyer for use in this Agreement, have any right to use or make any Modification in respect of:
 - 7.3.1 any software (and Modifications thereto) proprietary to Buyer; or
 - 7.3.2 the Third Party Software (and Modifications thereto); or

7.3.3 Buyer Data.

- 7.4 All Intellectual Property Rights vesting in either Party prior to the date of this Agreement shall remain vested in such Party notwithstanding any other provision of this Agreement.
- 7.5 All Intellectual Property Rights in any Developments and other materials such as designs, plans, specifications, models, documents, software including (without limitation) source codes and other records or information created, developed or made by or on behalf of Supplier in the performance of the Order or to enable the performance of the Order shall, at the date of the Order or (if later) on creation of the rights, vest in Buyer. Supplier assigns (by way of present and, where appropriate, future assignment) all such Intellectual Property Rights with full title guarantee to Buyer.
- 7.6 Supplier hereby grants to Buyer a non-exclusive, perpetual, world-wide, irrevocable and royalty-free licence (with the right to grant sub-licences) to use, develop and make Modifications in respect of all other materials such as designs, plans, specifications, models, documents, software including (without limitation) source codes and other records or information in which the Intellectual Property Rights are owned by Supplier as at the date of the Order that are necessary to enable Buyer to exercise the rights contemplated in this Agreement.
- 7.7 To the extent that Buyer is able to without infringing any right (including, without limitation, any Intellectual Property Rights) of, or becoming liable to make any payment to, any third party, Buyer hereby grants to Supplier and its agents and sub-contractors providing the Works a non-exclusive, royalty-free licence during the term of this Agreement to use, develop and make Modifications in respect of any Intellectual Property Rights vested in Buyer and which are required or desirable to enable Supplier only for the purpose of performing its obligations under this Agreement.
- 7.8 Supplier agrees that it will promptly communicate the Developments to the Buyer together with all inventions, programs, improvements, processes, standards, techniques, developments, know how, designs or any other original matters whether capable of registration or not associated with the Works which, at any time during the performance of this Agreement or any Order, Supplier might devise or discover. Supplier further agrees that all such Intellectual Property Rights and all rights throughout the world deriving from the same which arise after this Agreement or any Order has terminated shall vest in Buyer absolutely, as works made for hire.
- 7.9 Supplier shall, both during the continuance and following the termination of this Agreement for any reason whatsoever, at the request and reasonable expense of Buyer, as Buyer may require, apply for, and do all acts and things necessary to obtain registration or other protection in respect of the Intellectual Property Rights in the Developments in any part of the world. Supplier at its own expense shall and shall use all reasonable endeavours to procure that any necessary third party shall execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the rights assigned under this clause 7.9.
- 7.10 Supplier shall not, at any time, whether during the continuance or following the termination of this Agreement for any reason whatsoever, do anything to affect the validity of any of the Intellectual Property Rights in the Developments.
- 7.11 Each Party acknowledges that all Intellectual Property Rights vesting in either Party prior to the date of the Order are and shall remain the sole property of that Party.
- 7.12 Supplier undertakes not to:
 - 7.12.1 copy Buyer's Intellectual Property Rights or products (other than as authorized under this Agreement) nor otherwise reproduce the same;
 - 7.12.2 utilise, customise, modify or create derivative works of, translate, adapt or vary Buyer's Intellectual Property Rights and products except as expressly permitted in this Agreement or an Order or otherwise agreed in writing between the Parties;
 - 7.12.3 disassemble, decompile or reverse engineer Buyer's Intellectual Property Rights and products, except if and to the extent permitted by applicable law; and
 - 7.12.4 license or sell any Buyer's Intellectual Property Rights or products, or any part thereof, to any third party.

8. Quality and Inspection

- 8.1 Supplier's quality system shall be compliant with the requirements of ISO9001 or such other quality standard as Buyer shall notify to Supplier on an Order.
- 8.2 Supplier will maintain detailed quality control and manufacturing sub-assembly and component traceability records for the period of at least seven years from the date of last supply of the Works.
- 8.3 For the purpose of observing the quality and progress of an Order and Supplier's performance of its obligations or of verifying the amount of the price, Buyer and its nominated representatives may at any time during a Business Day and from time to time on 2 Business Days' notice undertake any inspection of any premises and carry out an audit or check of any aspect of performance of this Agreement by Supplier and shall be allowed to observe work being performed by or on behalf of Supplier or its sub-contractors at any premises owned or used by Supplier in connection with the provision of the Works or any other deliverable in order to verify that Supplier is complying with its obligations under this Agreement. Such observation shall occur during Business Days and during hours that are reasonable under the circumstances (which may be outside working hours). Buyer may appoint an appropriate third party (who shall not be a competitor of Supplier) to act on its behalf in connection with its rights under this clause.
- 8.4 If a discrepancy is found between any amounts confirmed to Buyer by Supplier and the actual amounts for the same period as determined in the course of any inspection made under this clause, Supplier shall reimburse Buyer for all costs reasonably incurred in conducting such inspection including but not limited to travel, accommodation and living expenses of the persons conducting such inspection, for the period of the inspection and the fees and expenses of any third party engaged by Buyer to conduct the inspection.
- 8.5 Supplier, at no additional cost to Buyer, shall and shall procure that its sub-contractors shall:
 - 8.5.1 comply with all of Buyer's standard policies that are relevant to the supply of the Works and any other on-site regulations specified by Buyer for personnel working at Buyer's premises or relating to accessing any of Buyer's computer systems. Buyer shall provide Supplier with a copy of such policies and standards as they exist at the Order date, and, whenever they are updated, promptly following issue of the updated versions;
 - 8.5.2 provide the Works in compliance with all requirements of all applicable legislation from time to time in force and which is or may become applicable to the Works, including without limitation European Union Directive 2011/65/EU (the RoHS Directive) and all amendments thereto. Supplier shall promptly notify Buyer if Supplier is required to make any change to the Works for the purposes of complying with its obligations under this clause;
 - 8.5.3 advise Buyer of and obtain, maintain and observe at its own cost and at no additional charge to Buyer all applicable governmental, statutory, regulatory or other consents, licences, authorisations, waivers or exemptions (including but not limited to third party licences) required by Supplier (unless otherwise agreed in writing by the Parties) in connection with the performance of Supplier's obligations under this Agreement; and
 - 8.5.4 promptly notify Buyer of any health and safety hazards that exist or may arise in connection with the supply of the Works.
- 8.6 Supplier shall have and operate a process to ensure that all Works, sub-assemblies and the components contained therein supplied to Buyer are completely traceable back to manufacturer by batch or lot or date code.
- 8.7 Supplier may provide notice of not less than twelve (12) months of the discontinuance of the supply of parts or components in the Works and during said notice period Supplier shall procure such reasonable last time quantity as directed by Buyer for such parts or components. Unless otherwise agreed between the Parties, Supplier shall procure and store such parts or components at no additional charge to Buyer.

9. Continuous Improvement

- 9.1 On all manufacturing contracts forecast to last longer than six (6) months in aggregate, each Party shall cooperate in good faith to implement a Works cost reduction program involving new technologies, component cost reduction, productivity, quality and reliability improvements, and manufacturing processes (including cycle time and assembly costs) which are mutually beneficial when all engineering and re-qualification costs are considered. Any cost savings which are achieved by Supplier as a result of implementing cost reductions proposed solely by Buyer shall reduce the price of the Works by the entire amount of Supplier's cost savings, after Supplier has recovered its NRE Items associated with the cost reduction. Any cost savings which are achieved by Supplier as a result of changes proposed solely by Supplier, or jointly by the Parties, after Supplier has recovered its NRE Items associated with the cost reduction, shall be shared equally by the Parties for a period of twelve (12) months and shall be retained exclusively by the Buyer after twelve (12) months. Notwithstanding the foregoing, cost reductions will commence immediately to reduce total costs of acquisition within an integrated supply chain by actively driving best practice in areas including, but not limited to simplification of ordering, and billing processes, improved packaging and labelling and inventory reduction.
- 9.2 Supplier agrees that during the term of this Agreement, if requested by Buyer, the Parties will work together to develop and implement productivity improvements, including but not limited to, value engineering, Kaizen events, and quality improvements for the purpose of reducing Supplier's costs to manufacture the Works and the Parties' transaction costs.
- 9.3 The Parties agree that during the term of this Agreement, they shall work together to develop and implement a Works lead-time and component lead-time reduction program to reduce the Works lead-times and component lead-times mutually agreed by the Parties commencing immediately upon signature of the Agreement. Works lead-time and component lead-time reduction programs may include, but shall not be limited to, initiatives such as security stocking of long lead-time items, lower tier supplier agreements, re-engineering the manufacturing process, and Works redesign. The Parties agree to baseline forward Works lead-times and component lead-times for purposes of benchmarking the success of such programs.

10. NRE and Tooling

- 10.1 Any Tools or Tooling purchased from Supplier or manufactured by Supplier, the cost of which forms part of an Order will become the property of Buyer and all right, title and interest in and to any part of Tooling will pass to Buyer as soon as it is acquired or fabricated in accordance with the Order.
- 10.2 Supplier shall be responsible for the routine maintenance, storage, repair, usage, replacement (within their useful life, fair wear and tear excepted) and calibration of all Tooling in Supplier's possession for performance of this Agreement. If calibration or other specialist requirements are required outside of routine maintenance, repair or usage and not caused by a lack of care or damage by Supplier, then such costs shall be agreed in advance and paid for separately by Buyer
- 10.3 Buyer's Property furnished to Supplier (where Buyer Property shall include any third party property provided by the Buyer) shall remain the exclusive property of the Buyer. The Buyer may demand possession thereof at any time without notice.
- 10.4 Supplier shall maintain and keep Buyer's Property in good condition. Buyer will compensate Supplier at its normal hourly rates for all calibration, maintenance or repair services to Buyer's Property (excluding Tools, Tooling and NRE Items and other than normal preventative maintenance services or services to correct defects caused by Supplier's act or omissions negligence or wilful misconduct), provided that Buyer approves such services and rates in advance and in writing. Buyer is not required to compensate Supplier for any such services associated with equipment or tooling owned by Supplier and not intended to be sold or otherwise transferred to Buyer.
- 10.5 Supplier warrants that Buyer's Property, Tools, Tooling and NRE Items shall not be removed from Supplier's premises except on the prior written permission of Buyer. Supplier may remove Buyer's Property, Tools, Tooling and NRE Items from Supplier's premises for purposes of repair provided that Supplier provides advance notice to Buyer of the anticipated removal.
- 10.6 Supplier shall keep Buyer's Property, Tools, Tooling and NRE Items separate and apart from its own property and that of other persons and shall clearly mark them as being Buyer's property.
- 10.7 Supplier warrants that Buyer's Property, Tools, Tooling and NRE Items shall not be used by Supplier for any purpose other than for the supply of the Works to Buyer.
- 10.8 Supplier shall be liable to Buyer for any loss of or damage to Buyer's Property, Tools, Tooling and NRE Items during the time it is in Supplier's possession, custody or control. During such time Supplier shall insure Buyer's Property, Tools, Tooling and NRE Items at full replacement value in the name of and for the benefit of Buyer at Supplier's expense with a reputable insurance provider.
- 10.9 Supplier waives any lien which it might otherwise have (whether at the date hereof or subsequently) on any of Buyer's Property for work done thereon or otherwise. This condition shall not be construed as a waiver of any other right of recovery of any other charges that may be due to Supplier for such work.
- 10.10 Supplier shall keep Buyer's Property, Tools, Tooling and NRE Items free of all mortgages, charges or other encumbrances and will procure that any lien over the same is discharged forthwith.
- 10.11 Supplier shall promptly pay Buyer on demand the full replacement value of any of Buyer's Property, Tools, Tooling and NRE Items which is not provided to Buyer in good condition or satisfactorily accounted for.

11. Liability and Indemnity

- 11.1 Supplier represents and warrants that it has the authority to perform all its obligations and grant the rights granted pursuant to this Agreement or the order and that such performance or the granting of such rights is not in breach of any Agreement to which it is a party or otherwise bound.
- 11.2 Supplier shall be liable to Buyer for all damages, costs, expenses and any other sums incurred or charged that Buyer may suffer in connection with any acts or omissions of Supplier under this Agreement or the Order.
- 11.3 Supplier shall indemnify, keep indemnified and hold harmless Buyer from and against any claims by third parties which are caused by or arise out of or in connection with
- 11.3.1 Any act or omission of Buyer carried out pursuant to instructions of Supplier; or
- 11.3.2 Any breach by Supplier of any terms of this Agreement or the Order
- 11.4 Notwithstanding anything stated herein nothing shall exclude or limit the liability of either Party:
- 11.4.1 For death or personal injury arising as a result of its negligence or its employees; or
- 11.4.2 For fraud, theft, negligent or fraudulent misrepresentation by it or its employees, wilful misconduct, gross negligence or intent; or
- 11.4.3 For breaches of Data Protection Legislation and fines imposed by the supervisory authority; or
- 11.4.4 For breaches of Corporate Criminal Offences regulations; or
- 11.4.5 For any other matter for which it would be illegal for the relevant Party to exclude or limit or to attempt to exclude or limit its liability.
- 11.5 Subject to clause 11.4, Buyer's aggregate liability under each Order pursuant to this Agreement is limited to the total price which has been paid or is due to be paid under each Order.
- 11.6 Except as provided in clause 11.4, Buyer will have no liability under or in connection with this Agreement or any order in respect of:
- 11.6.1 Loss of profits, loss of business, loss of revenue, loss of contracts, loss of goodwill, loss of anticipated earnings or

- savings (in each case whether direct, indirect, incidental or consequential); or
- 11.6.2 Loss of use or value or damage of any data or equipment (including software), wasted management, operation or other time (in each case whether direct, indirect, incidental or consequential); or
- 11.6.3 Any special, indirect, punitive, incidental or consequential loss, howsoever arising.
- 11.7 Supplier warrants that the Works will not infringe a third party's Intellectual Property Rights. Supplier will indemnify, keep indemnified and hold harmless Buyer and Buyer's customers from, and at its own cost defend any action brought against Buyer or its customers based upon, a claim, legal action or allegation that the works and/or Intellectual Property Right created by Supplier pursuant to this Agreement or the Order (whether created using Buyer's software or created by any other means whatsoever) infringe the Intellectual Property Rights of a third party and will pay the amount of any settlement or the costs and damages awarded including reasonable legal fees (if any) in such action. Following notice of a claim or a threatened or actual action Supplier shall (without prejudice to Buyer's other rights):
- 11.7.1 Provide for Buyer and Buyer's customers the right to continue to use the works and/or Intellectual Property Right; or
- 11.7.2 Replace or modify the works and/or Intellectual Property Right so as to make it non-infringing of any third party rights and Supplier shall ensure that such replacement or Modification shall perform in a manner identical in all material respects to the, works and/or Intellectual Property Right as it was prior to such replacement or Modification.
- 11.8 Supplier shall purchase, renew and maintain as necessary sufficient public liability, product liability and professional indemnity insurance cover to satisfy Buyer that it is insured to such an extent to enable it to satisfy any indemnities and liabilities incurred under this agreement or any order. Supplier shall provide to Buyer a copy of the relevant insurance policies upon Buyer's request and upon each renewal of such insurance. For the avoidance of doubt, each said insurance policy for the above must provide Supplier with cover of at least £10,000,000 (ten million GBP) per event or series of related events.
- 11.9 Neither Party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure results from an event, circumstances or cause beyond its reasonable control ("**Force Majeure Event**"). Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations. If a Force Majeure Event prevents, hinders or delays Supplier's performance of its obligations for a continuous period of more than 3 months, Buyer may terminate the Agreement immediately by giving written notice to Supplier.
- 11.10 This clause 11 shall survive termination of the Agreement.

12. Termination

- 12.1 Either Party may by notice in writing, without prejudice to any of its rights herein, terminate this Agreement or an Order forthwith if the other Party commits a material breach of this Agreement or an Order (as the case may be) which is incapable of remedy, or if capable of remedy, within sixty (60) days of the date of dispatch to the other Party of a written request to remedy such breach and the other Party fails to remedy such breach.
- 12.2 Without prejudice to any of its accrued rights whether arising out of or in connection with this Agreement or an Order either Party shall be entitled to immediately terminate this Agreement or any Order by notice in writing if the other Party is (a) unable to pay its debts or becomes insolvent, or admits inability to pay its debts as they fall due, (b) enters into bankruptcy, suspension of payments, a compulsory and/or voluntary arrangement with its creditors, or shall cease or threaten to cease to carry on its business, (c) any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, liquidation or similar proceedings are initiated by or against the Party, and/or (d) an encumbrancer taking possession of or selling, the whole or part of the Party's undertaking, assets, rights or revenue, or the equivalent of any of the foregoing occurs to the Party under the jurisdiction to which it is subject.
- 12.3 There is a Change of Control of the other Party.
- 12.4 Buyer is entitled to cancel the Order in whole or in part by giving written notice to Supplier at any time prior to delivery of the Works in which event Buyer's sole liability will be to pay to Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 12.5 Supplier shall provide or return, as applicable, to Buyer all the Tooling, Developments and any other records or material belonging to the Buyer and all copies of any of them by no later than thirty (30) days from the date of expiration or termination of this Agreement for any cause whatsoever, except as may be required for purposes of audit or any dispute.
- 12.6 Termination of the Agreement, howsoever arising, shall not affect any of the Parties' rights and remedies that have accrued as at termination.
- 12.7 Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.

13. Non-Solicitation

- 13.1 Neither of the Parties shall, during the continuance of the Agreement or for a period of 6 months thereafter, procure or induce or attempt to procure or induce (either on its own behalf or on behalf of any other person, firm or company) any senior employee, officer or other personnel of the other Party who has been directly involved in the Agreement to leave the employment of the other Party.

14. Anti-Bribery

- 14.1 Supplier shall:
- 14.1.1 comply with all applicable laws, statutes, regulations, relating to anti-bribery and anti-corruption including but not limited to the Danish Criminal Code and the UK Bribery Act 2010 ("**Relevant Requirements**");
- 14.1.2 not engage in any activity, practice or conduct which would constitute an offence under the Relevant Requirements;
- 14.1.3 have and shall maintain in place throughout the term of the Agreement its own policies and procedures, including but not limited to, adequate procedures under the Danish Criminal Code and the UK Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- 14.1.4 promptly report to Buyer any request or demand for any undue financial or other advantage of any kind received by Supplier in connection with the performance of the Agreement.
- 14.2 Supplier shall ensure that any person associated with Supplier who is performing services or providing goods in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Supplier in this clause 14 ("**Relevant Terms**"). Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Buyer for any breach by such persons of any of the Relevant Terms. For the purposes of this clause, a person associated with Supplier includes but is not limited to, any subcontractor of Supplier.

15. Confidentiality Obligations

- 15.1 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 products 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 Agreement, 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 Agreement. 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.

15.2 This clause 15 shall survive termination of the Agreement.

16. Data Protection

16.1 The Parties will comply with their respective obligations under the Data Protection Legislation and neither Party shall perform their obligations in any way which may cause the other Party to breach any of its applicable obligations under the Data Protection Legislation.

17. Corporate Criminal Offences

17.1 Supplier shall:

17.1.1 comply with all applicable laws, statutes, regulations, relating to Corporate Criminal Offences, including but not limited to Part 3 of the UK Criminal Finances Act 2017;

17.1.2 not engage in any facilitation of tax evasion of any kind;

17.1.3 have and shall maintain in place throughout the term of the Agreement its own policies and procedures to prevent Corporate Criminal Offences, including but not limited to, reasonable prevention procedures under the UK Criminal Finances Act 2017;

17.1.4 promptly report to Buyer any suspected tax evasion in relation to Supplier's performance of this Agreement.

17.2 Supplier shall ensure that any person associated with Supplier who is performing services or providing goods in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Supplier in this clause 17 (the "CCO Terms"). Supplier shall be responsible for the observance and performance by such persons of the CCO Terms, and shall be directly liable to Buyer for any breach by such persons of any of the CCO Terms. For the purposes of this clause, a person associated with Supplier includes but is not limited to, any subcontractor of Supplier.

18. Price and Payment

18.1 Supplier shall invoice Buyer the charges for the Works as set out in the Order upon Buyer's written acceptance of the Works. Such invoice shall include: Order number, descriptions of the Works, sizes, quantities, prices and totals.

18.2 Buyer shall pay to Supplier the proper and valid invoiced price in the currency of payment as set out in the Order within sixty (60) days of receipt of a correct invoice. All payments shall be made to Supplier at the address shown in the Order. Buyer may make adjustments or withhold payment if Buyer reasonably deems that any invoices are not submitted in accordance with this Agreement, due to any shortages or failures, or for any failure to comply with the requirements of the Order.

18.3 The price and any other sums payable by Buyer are Gross amounts inclusive of:

18.3.1 any value added tax and all other foreign, federal, local, sales or use taxes;

18.3.2 all charges including, but not limited to, packaging material, packing, shipping, loading, carriage, insurance and delivery of the Works to Buyer's specified place of delivery; and

18.3.3 any duties, imposts and levies.

18.4 In the event of any delay in payment by either Party of any amount owed beyond the period of 30 days from the date for payment the other Party may charge interest at the rate of 3% per annum above the base rate from time to time of the Bank of England until the payment thereof in full.

19. Definitions

"Acceptance Tests"	means such acceptance tests as proposed by or on behalf of Buyer acting reasonably and issued prior to any such acceptance tests being undertaken to determine whether the Works (both individually and collectively with other Works) are in accordance with its specifications and otherwise meets Buyer's requirements as contemplated by this Agreement.
"Agreement"	means the agreement formed based on these Terms when an Order is accepted, in accordance with the process set out in clause 2.
"Business Days"	any day except a Saturday, Sunday or public/bank holidays on which the banks in London are open for business.
"Buyer Data"	the data supplied or otherwise made available by the Buyer to Supplier or any of Supplier's sub-contractors and the data generated by or stored in the computer systems and telecommunications networks owned or operated by or on behalf of or for the benefit of Buyer to which Supplier or its sub-contractors gain access in connection with the provision of any Works together with any Modifications thereto from time to time made by or on behalf of any person.
"Buyer's Property"	means any dies, tools, patterns, plates, artwork, designs, drawings, specifications, free issue materials or other documents or items in the possession or under the control of Supplier which have either been supplied by the Buyer to Supplier, or in respect of which the Buyer (subject always to Buyer's rights under this Agreement) has paid Supplier the entire NRE Items price.
"Change of Control"	means for any entity, any change in the: (a) ownership or control (directly or indirectly) of more than fifty per cent (50%) of the voting capital of the entity; or (b) ability (directly or indirectly) to direct the casting of more than fifty per cent (50%) of the votes exercisable at general meetings of the entity; or (c) right (directly or indirectly) to appoint or remove directors of the entity holding a majority of voting rights at meetings of the board of directors of the entity.
"Corporate Criminal Offences"	means the corporate offences set out in Part 3 of the UK Criminal Finances Act 2017.
"Data Protection Legislation"	the Danish Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679 (GDPR) and any legislation which directly replaces them.
"DEFCONS"	means Defence Contract Conditions.

"Developments"	means any Works, development documentation, information, materials, plans, drawings, reports or the like created under or for the purposes of an Order during the course of the performance of an Order.
"DFARS"	means Defence Federal Acquisition Regulation Supplement.
"Documentation"	means the user guides and user manuals (as appropriate) for the Works, regardless of whether in printed and/or machine-readable format.
"FAR"	means Federal Acquisition Regulation.
"Forecast"	means a rolling estimate of Buyer's requirements for Works from current Orders up to a forward looking period of at least nine (9) months and preferably twelve (12) months including the quantities to be manufactured and the requested delivery date.
"Goods"	means the goods (or any part of them) set out in the Order.
"Intellectual Property Rights"	all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in all countries in the world and together with all renewals and extensions.
"Modification"	means all translations, adaptations, arrangements, derivative works, developments, enhancements, error corrections, fixes, versions, upgrades, updates, new releases and, without limitation, by reference to the foregoing, modifications (and "Modified" shall be construed accordingly).
"NRE Items"	means any unique labour, tooling, jigs, fixtures or stencils, or other items utilised for the manufacture of Works that are separately priced in an Order for the Works or detailed in a separate NRE Items Order related to the Works.
"Order"	shall mean an order placed by Buyer for Works.
"Services"	means the services to be provided by Supplier as set out in the Order.
"Tools" or "Tooling"	means tools for use with or created pursuant to the Works.
"Works"	shall mean the Goods and/or Services as specified in the Order or any part thereof.