

ZeroAlpha Solutions Limited
Terms and Conditions of Sale

1. DEFINITIONS

- 1.1 For the purposes of these Conditions of Sale:
- a) The "Company" means ZeroAlpha Solutions Limited, as specified in the Contract.
 - b) The "Article(s)" means the products and/or services to be supplied by the Company under the Contract.
 - c) The "Customer" means the person or Party whose order for the Article(s) is accepted by the Company.
 - d) The "Parties" means the Company and the Customer.
 - e) The "Contract" means a contract or purchase order for the supply of the Articles that has been accepted in writing by the Company, together with these Conditions of Sale and any other document(s) expressly incorporated as part of the Contract.
 - f) The "Total Contract Price" means the total price agreed by the Parties for the supply by the Company of all Articles required under the Contract. For the purposes of Total Contract Price, "firm" means the price shall not be adjusted to take account of the effect of inflation on the costs of labour and/or material incurred by the Company in its performance of the Contract.
- 1.2 Any reference in these Conditions of Sale to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended on signature of the Contract.

2. SCOPE

- 2.1 These Conditions of Sale govern the Contract and, except where otherwise expressly agreed in writing, shall take precedence over all other terms and conditions, statements of work, technical specifications and other documents referenced in the Contract. Any terms and conditions appearing in the Customer's documents shall have no contractual effect and appear only by reason of being printed on the Customer's stationery. Any statements or undertakings made or given at any meetings or in any correspondence shall not amend any of these Conditions of Sale unless made in writing, signed by both Parties and expressly stated to be an amendment to these Conditions of Sale in accordance with Clause 24.

3. PRICES

- 3.1 Unless otherwise agreed in writing, the Total Contract Price shall be firm and exclusive of VAT.
- 3.2 In the event that any delay arises from instructions of the Customer or from failure by the Customer to provide the Company with adequate information or instructions, the Parties shall promptly agree upon an equitable adjustment to the price and/or delivery schedule and shall amend the Contract accordingly.

4. PAYMENT

- 4.1 Unless otherwise agreed in writing, payment shall be made by the Customer in pounds sterling within thirty days of receipt of an invoice from the Company claiming such payment.
- 4.2 Unless expressly stated new business accounts will be required to pay 50% of order value in advance with remaining balance to be settled relative to clause 4.1
- 4.3 Without prejudice to the Company's rights under Clause 20 of these Conditions of Sale, the Company reserves the right to claim statutory interest at 8% above the Bank of England base rate at the date the debt becomes overdue in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Customer shall not be entitled to withhold payment for the Article(s) or to exercise any rights of set-off, counterclaim or other deduction for any reason whatsoever.
- 4.4 Any failure on the part of the Customer to make payment in accordance with the terms of this Contract shall entitle the Company, at its option and without prejudice to its rights under Clause 20 hereof, to withhold further deliveries both in respect of this Contract or series of Contracts and/or any other Contract for delivery of goods to the Customer until such payment has been made.
- 4.5 In the event that the currency of the Contract is replaced by the European single currency known as the Euro, all references to the currency of this Contract shall be replaced by references to the Euro. Conversion of the currency of this Contract to the Euro shall be made at the date and at the rate defined in the relevant European Union regulations.

5. END USER

- 5.1 The Customer shall provide to the Company whatever End-User Certification may be required by the UK authorities.

6. DELIVERY

- 6.1 Delivery shall be ex-works in accordance with Incoterms 2010 unless expressly stated otherwise.
- 6.2 The Article(s) may be delivered by the Company in advance of the quoted delivery date(s) upon giving reasonable notice to the Customer.

7. PACKAGING

- 7.1 Unless otherwise agreed in writing packaging will be in accordance with the Company's normal commercial standards and the cost thereof shall be included in the Total Contract Price.

8. TESTING AND ACCEPTANCE

- 8.1 Where applicable, testing and inspection of the Article(s) will be undertaken in accordance with the Company's quality assurance procedures. The Company shall provide a Certificate(s) of Conformity at the time of delivery, certifying that the delivered Article(s) conforms to the agreed Contract specification(s).
- 8.2 The Customer shall have a period of thirty (30) days from the date of delivery in which to reject the Article(s) provided he can show that they do not conform to the agreed Contract specification(s).
- 8.3 Upon any such rejection, the Customer shall return the Article(s) to the Company, carriage paid, by the method of transport specified by the Company. If the Customer has not exercised its right of rejection within the said thirty-day period, the Article(s) shall be deemed to have been accepted.

9. DELIVERY OF WRONG QUANTITY

- 9.1 Where a wrong quantity of Article(s) is delivered, the Customer shall be entitled to reject only those Article(s) that are in excess of the total quantity ordered always provided that the Customer shall have notified the Company in writing of its intention to reject the Article(s) within fourteen (14) days of receipt thereof.

10. DESCRIPTIONS

- 10.1 Whilst every effort is made to ensure the accuracy of all descriptions, diagrams and other information contained in documentation or other data deliverables required under this Contract, the Company's liability for any inaccuracy or deficiency therein shall be limited to supplying or disclosing such further descriptions, diagrams and other information as are necessary to correct the inaccuracy or deficiency. No other warranties, whether express or implied are given by the Company in respect of the documentation or other data deliverables required under this Contract.
- 10.2 The Company reserves the right to amend all component and subsystem specifications prior to delivery to reflect design changes or to resolve problems arising due to obsolescence, and the Company shall be free to do so provided that deliverable documentation is amended to reflect the delivered build standard. Changes to the performance or interface specifications of the complete Article(s) that affect form, fit and function shall require the prior written approval of the Customer, which shall not be unreasonably withheld.

11. RISK AND TITLE

- 11.1 Unless otherwise agreed in writing, risk in the Article(s) shall pass to the Customer when delivery is made ex-works in accordance with Incoterms 2010.
- 11.2 Notwithstanding the passing of risk, title to the Article(s) shall not pass from the Company to the Customer until the Company has received payment in full of the Total Contract Price.
- 11.3 Until such time as title to the Article(s) passes to the Customer, the Customer shall, where appropriate, hold the Article(s) as the Company's fiduciary agent and bailee, and shall keep the Article(s) separate from goods belonging to the Customer and/or third parties, properly stored, protected and insured and identified as the Company's property. The Customer shall under no circumstances resell the Article(s) to any third party nor incorporate them in or commix them with any other products, goods or equipment.
- 11.4 Until such time as title to the Article(s) passes to the Customer, the Company may at any reasonable time enter upon any of the Customer's premises and remove the Article(s) therefrom and the Customer shall permit the Company reasonable access to the said premises to do so.
- 11.5 In the event that the price for the Article(s) is not paid within fourteen (14) days of the due date in accordance with the provisions of Clause 4 of these Conditions of Sale, the Company may at its absolute discretion and without prejudice to any other right or remedy it may have, either recover the Article(s) from the Customer or commence an action for the price of the Article(s) including interest payable under sub-clause 4.2.

12. WARRANTY

- 12.1 The Company warrants the Article(s) against failure to meet the Contract specifications arising solely from defective materials or workmanship occurring during a period of twelve (12) calendar months from the date of ex-works delivery as defined in Incoterms 2010. The warranty provided herein is exclusive and in lieu of any other warranty, express or implied, including without limitation any implied warranty of satisfactory quality or fitness for a particular purpose. Accordingly, the terms implied by Sections 13, 14 and 15 of the Sale of Goods Act 1979, as amended by the Sale and Supply of Goods Act 1994, and the corresponding provisions of the Supply of Goods and Services Act 1982, as amended, are hereby excluded. The Customer's exclusive remedy and the Company's sole liability under the warranty shall be limited to the repair or replacement of the defective Article(s) and the Company shall be liable for no other damages or losses including, but not limited to, consequential or indirect damages or losses arising from the defective Article(s).

- 12.2 This warranty shall in any event be subject to the following conditions:
- a) Article(s) which are repaired or replaced during the warranty period shall remain under warranty for a period of time equivalent to the unexpired warranty existing at the time of notification by the Customer to the Company of warrantable arising.
 - b) The Customer shall have notified the Company of any alleged defect within fourteen (14) days of its appearance and shall have given the Company the opportunity to examine the Article(s) and any relevant records of usage, maintenance and storage maintained by the Customer and/or third parties to whom the Article(s) are supplied directly or indirectly by the Customer.
 - c) The Customer shall have ensured that the Article(s) have been stored, fitted, maintained and used in accordance with any specifications, user instructions, maintenance manuals etc. provided by the Company.
 - d) The Customer shall not have changed, removed or obscured any serial or identification numbers, labels, lettering or other markings which are on the Article(s) at the time of delivery thereof.
 - e) The warranty does not extend to normal wear and tear, misuse, accidental damage and/or defects attributable to modification by persons other than authorised employees of the Company.
 - f) The warranty does not extend to any damage caused by any type of operation or use outside that for which the Article(s) are reasonably intended.
 - g) The Company shall be under no liability in respect of any defect in the Article(s) arising from any drawing, design or specification supplied by the Customer.
 - h) The warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Customer shall only be entitled to the benefit of any such warranty as is given by the manufacturer to the Company.
 - i) The warranty may be asserted by the Customer only and not by any third party or other user of the Article(s).
 - j) The warranty shall be ineffective in respect of such Article(s) for which payment has not been made by the due date in accordance with Clause 4 above.
- 12.3 If so advised by the Company, the Customer agrees to return all defective Article(s) or parts thereof along with a statement of the alleged defect to the Company, carriage paid, by the method of transport stipulated by the Company. Where the examination of the said Article(s) or parts thereof finds that the defect is due to the fault of the Company, the Company will pay all charges in connection with return of the Article(s) to the Customer which will otherwise be the responsibility of the Customer.
- 12.4 All reasonable costs incurred by the Company in relation to a "No Fault Found" analysis/examination of Article(s), including those incurred in relation to the shipment of such Article(s), shall be fully reimbursed by the Customer to the Company.

13. INDEMNITY

- 13.1 Subject to sub-clause 13.2 below, the Company hereby indemnifies the Customer against all direct costs and expenses incurred by the Customer as a result of a claim by a third party, for any infringement or alleged infringement of any patent, registered design, copyright, trade mark or trade name, arising from the supply of the Articles by the Company, always provided that the Company shall not be liable to indemnify the Customer:
- a) If the Company has at its own expense procured for the Customer the right to continue to use the Article(s) or has replaced or modified the Article(s), or
 - b) If the Customer has failed to give the Company the earliest possible notice in writing of any action being threatened or claim being made, or has failed to permit the Company to conduct all necessary litigation and/or negotiations in accordance therewith, or
 - c) If the Customer has made any admission of liability on behalf of itself or the Company, or
 - d) If the Customer has used or caused the Article(s) to be used in a manner or for a purpose other than that for which they were originally intended by the Company, or
 - e) If the Customer has used, or caused the Article(s) to be used, sold or exported into any country not authorised by the Company.
- 13.2 The Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate any losses, damages, costs or expenses for which the Company is liable to indemnify the Customer in terms of Clause 13.1.
- 13.3 The Customer hereby indemnifies the Company against all actions, claims, demands, charges and expenses in respect of any infringement or alleged infringement of any patent, registered design, copyright, trade mark or trade name resulting directly or indirectly from instructions from the Customer to the Company specifying the use by or on behalf of the Company of any material, design, process or other feature required by the Customer in the performance of the Contract.

14. INTELLECTUAL PROPERTY

- 14.1 Subject to any third party rights, all rights in the design of the Article(s) and all intellectual property existing or coming into existence in relation to the Article(s) are wholly owned by the Company.
- 14.2 In accepting a Contract for the supply of the Article(s), the Company shall not, by implication or otherwise, be deemed to have granted any free rights of use or licence whatsoever in or to any intellectual property relating to the Article(s) to be supplied under the said Contract.

15. CONFIDENTIALITY

- 15.1 The Contract, quotation and all material, documents and information issued by the Company in any form in connection therewith shall be confidential and their use and disclosure shall be strictly limited by the Customer to those of its employees having a need to know and, subject to sub-clause 15.2 below, the Customer shall under no circumstances disclose any such information to any third party without the prior written consent of the Company.
- 15.2 The Customer shall promptly inform the Company if the Customer receives notification from a public body that such public body has received a request under the Freedom of Information Act 2000 (or similar UK or foreign legislation) to disclose the Company's confidential information. In such circumstances, the Customer shall ensure that any disclosure by it of the Company's confidential information shall contain a protective marking agreed by the Company.

16. TOOLS

- 16.1 All tools, jigs, moulds, dies, gauges and other equipment and associated software made by or for the Company, shall, unless otherwise agreed, become and/or remain the property of the Company who may use the same for any purpose whatsoever. Where, for the purpose of the Contract, such equipment is supplied by the Customer to the Company, the Company shall not be liable for any loss or damage thereto unless such loss or damage is directly attributable to the Company's negligence.

17. LIABILITY

- 17.1 The Customer shall ensure that the end user of the Article(s) or of products incorporating the Article(s) shall be advised as to the nature of the Article(s) and shall be supplied with all relevant information (including any instruction and maintenance manuals and/or safety information) supplied by the Company to the Customer in respect of such Article(s).
- 17.2 Subject to any express provisions to the contrary contained in these Conditions of Sale, all representations, warranties, guarantees and conditions in relation to the Article(s), whether express or implied, statutory or otherwise, are hereby excluded and the Company shall not be liable in contract, tort, breach of statutory duty or otherwise for any loss, injury, destruction or damage whatsoever arising in connection with the supply of the Article(s). The Company does not exclude or limit liability arising in respect of death or personal injury caused by the Company's negligence.
- 17.3 Notwithstanding the provisions of Clause 13 of these Conditions of Sale and except in respect of liability for death or personal injury caused by the Company's negligence, the Company's liability in respect of any claim for loss or damage arising in any way in connection with the supply of the Article(s) shall cumulatively be limited to twenty per cent (20%) of the Total Contract Price of the Article(s) inclusive of any amendments thereto made in accordance with Clause 24.
- 17.4 The Company accepts no liability whatsoever for any form of consequential or indirect loss or damage including but not limited to any loss of use, goodwill, business, profit or contract.
- 17.5 The Customer acknowledges and agrees that the exclusions and limitations of liability provided for in this Clause are reasonable and that, if they had not been included, the Total Contract Price would have been materially increased.

18. FORCE MAJEURE

- 18.1 The Company will not incur any liability arising out of any delay in delivery or other performance hereunder due to a "Force Majeure". A "Force Majeure" is defined as any circumstance beyond the reasonable control of the Company including, but not limited to, industrial disputes, fire, flood, earthquake, currency restriction, shortage of transport, general shortage of material or power or fuel, epidemic, quarantine, Acts of God or nature, riots, mutinies, civil commotion, war or warlike operations, sabotage or any acts of the United Kingdom Government and Departments or Courts thereof. An extension of time for delivery or other performance by the Company shall be granted for a period equal to the duration of the delay caused by the Force Majeure circumstance.
- 18.2 Notwithstanding the provisions of sub clause 18.1 above, if the Force Majeure circumstances affecting the Company's performance hereunder continue for a period exceeding ninety (90) calendar days, the Parties shall use their best efforts to agree upon a mutually satisfactory course of action always provided that either Party shall at all times after such ninety day period be entitled to terminate the Contract immediately by notice in writing to the other Party in accordance with Clause 22.

19. WAIVER

- 19.1 No exercise or failure to exercise or delay in exercising any right, power or remedy vested in the Company under or pursuant to this Contract shall constitute a waiver by the Company of that or any other right, power or remedy. Any waiver by the Company of any provision or breach of this Contract shall not be effective unless made in writing by it.

20. TERMINATION BY THE COMPANY

- 20.1 The Company may, at its option and without prejudice to any other right or remedy that may be available to it, terminate or suspend the Contract in whole or in part by written notice to the Customer if the Customer fails to observe or perform any of its obligations under the Contract including, without limitation, its obligation to make payment on any due date.
- 20.2 The Contract shall automatically terminate if the Customer goes into liquidation, whether voluntary or compulsory (except for the purposes of any amalgamation or reconstruction), or has a receiver appointed or makes a compromise or arrangement with its creditors. Such termination shall be without prejudice to any accrued rights and liabilities of the Parties under the Contract.

21 TERMINATION BY THE CUSTOMER FOR DEFAULT BY THE COMPANY

- 21.1.1 The Customer may terminate this Contract in whole or in part in accordance with the procedures at Clause 21.1.2 if:
- (a) The Company fails to perform or to observe any part of its material obligations under the Contract; or
 - (b) The Company is declared bankrupt or becomes insolvent or goes into voluntary liquidation.
- 21.1.2 Where the Customer believes that any one or more of the above conditions exist, the following procedures shall apply:
- a) The Customer shall give written notice to the Company of its intention to terminate, specifying the area of default and calling upon the Company to effect remedial action.
 - b) The Company shall within sixty (60) days following receipt of written notice from the Customer either rectify the default, or, if the default is incapable of remedy within said sixty (60) days, propose a remedy and schedule for effecting the same, which shall be subject to the Customer's approval.
 - c) If the Company fails to rectify the default within sixty (60) days following receipt of the Customer's written notice or fails to propose a remedy and schedule for the same which is acceptable to the Customer within said sixty (60) days, then the Customer may terminate the Contract in respect of any or all Article(s) not yet accepted, by written notice to the Company specifying the basis and extent of the termination and the effective date thereof.
 - d) Where the Customer's notice to the Company effects a termination of the Contract in respect of all Article(s) not yet accepted, the Company shall use all reasonable endeavours as soon as possible to procure the reduction or termination of its own work and that of its suppliers and subcontractors in respect of Article(s) not accepted at the effective date of termination and shall be entitled to receive the Contract price of all Article(s) already accepted at the effective date of termination.
 - e) Where the Customer's notice to the Company effects a termination of the Contract in respect of part of the Article(s) not yet accepted, the Customer and the Company shall proceed as directed in sub-clause 21.1.2(d), but only for the Article(s) terminated.

- 21.1.3 In the event of termination of the Contract, in whole or in part, by the Customer for default by the Company pursuant to this Clause 21, the Customer shall be entitled to seek compensation from the Company for the excess costs of reprourement of substitute Articles (that is the amount by which the cost of procurement from a third party of the terminated Article(s) exceeds the amount which would have been payable to the Company in respect of the terminated Article(s)) in so far as this amount does not exceed a sum equal to twenty per cent (20%) of Contract price of the terminated Articles.

22. TERMINATION IN THE EVENT OF FORCE MAJEURE

- 22.1 In the event that the Customer terminates the Contract, in whole or in part, pursuant to sub-clause 18.2 the Company shall use all reasonable endeavours as soon as possible to procure the reduction or termination of its own work and that of its suppliers and subcontractors in respect of Article(s) not accepted at the effective date of termination.
- 22.2 The Company shall be entitled to receive the Contract price of all Article(s) already accepted at the effective date of termination. Additionally, the Customer shall pay the Company a fair and reasonable price, equal to costs incurred plus a reasonable allowance for overhead recovery and profit, for all Articles not accepted at the date of termination, work in progress, materials and supplies produced, acquired, or irrevocably committed to by the Company in connection with the Contract.

23. NOTICES

- 23.1 All notices to be given under these Conditions of Sale shall be in writing and forwarded by first class prepaid post or sent by facsimile transmission to the receiving Party at its business address as last notified in writing to the other Party and shall be deemed to have been given on the date of the facsimile transmission provided that a copy of the notice is despatched on the same day by first class prepaid post or 2 days following that on which the notice was posted.

24. AMENDMENTS

- 24.1 Any amendment to the Contract must be in writing and signed by an authorised signatory of both Parties.

25. CLAUSE HEADINGS

- 25.1 Clause Headings are for convenience only and shall not affect in any way the interpretation of any of these Conditions of Sale.

26. INVALIDITY OR ILLEGALITY

- 26.1 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, this shall not affect:
- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - (b) the legality, validity or enforceability in other jurisdictions of that or any other provision of this Agreement.

27. LAW

- 27.1 The construction, validity and performance of the Contract shall be governed in all respects by the laws of England and the Parties hereby submit to the exclusive jurisdiction of the English courts.

28. RIGHTS OF THIRD PARTIES

- 28.1 Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a party to the Contract to enforce any term of the Contract in his own right and the Parties to the Contract declare that they have no intention to grant any such right.

29. ENTIRE AGREEMENT

- 29.1 The Contract contains the complete and entire understanding between the Parties on the subject matter of this Contract and supersedes all previous discussions, proposals, understandings or agreements, oral or written, relating to such subject matter provided that nothing in this Clause shall exclude any liability for fraudulent misrepresentation.