

## CONDITIONS OF PURCHASE

### 1 Definitions

In these Conditions the following words shall have the following meanings:

- 1.1 "DIP" means Data Interchange Plc.
- 1.2 "Contract" means the Order and the Seller's acceptance of the Order.
- 1.3 "Seller" means the person firm or company, to whom the Order is addressed.
- 1.4 "Goods" means the articles or materials or any part of them described in the Order, and shall be deemed to include any services or licenses ordered.
- 1.5 "Order" means the order placed by DIP for the Goods including these conditions.

### 2 Application of Terms

- 2.1 These Conditions are the only conditions upon which DIP is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions.
- 2.2 Each Order for Goods placed by DIP on the Seller shall be deemed to be an offer by DIP to purchase Goods subject to these Conditions and no Order shall be accepted until the Seller, either expressly by giving notice of acceptance or impliedly by fulfilling the Order in whole or in part, accepts the offer.
- 2.3 No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, specification or similar document (counter offer) will form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.
- 2.4 The commencement of any work or delivery of any Goods or the performance of any service hereunder by the Seller shall constitute acceptance of the Order upon these terms and any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by a director of DIP.

### 3 Delivery

- 3.1 Unless otherwise specified within the Order the Goods will be delivered carriage paid to DIP's place of business within five (5) working days of the Order being placed. Delivery time is of the essence.
- 3.2 Unless otherwise stipulated by DIP in the Order, deliveries shall only be accepted by DIP during normal business hours.
- 3.3 If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, DIP reserves the right to:
  - a) cancel the Contract in whole or in part;
  - b) refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
  - c) recover from the Seller any expenditure reasonably incurred by DIP in obtaining the Goods in substitution from another supplier; and
  - d) loss or expenses incurred by DIP which are in any way attributable to the Seller's failure to deliver the Goods on the due date.
- 3.4 Where DIP agrees in writing to accept delivery by installments the Contract will be construed as a single contract in respect of each installment. Nevertheless failure by the Seller to deliver any one installment shall entitle DIP at its option to treat the whole Contract as repudiated.
- 3.5 If the Goods are delivered to DIP in excess of the quantities ordered DIP shall not be bound to pay for the excess and any excess will be and will remain at the Seller's risk and will be returnable at the Seller's expense.

- 3.6 Received Goods will be subject to inspection and approval by DIP and any Goods that prove to be defective shall be replaced at the expense of the Seller or, at the request and sole discretion of DIP, a full refund provided.

#### **4 Risk and title**

- 4.1 The Goods shall remain at the risk of the Seller until delivery to DIP is complete (including off-loading and stacking) and DIP have approved the Goods in accordance with Condition 3.6, when ownership of the Goods shall pass to DIP.

#### **5 Indemnity**

- 5.1 The Seller shall keep DIP indemnified in full against all direct, indirect or consequential liability, loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by DIP as a result of or in connection with:

- a) defective workmanship, quality or materials;
- b) an infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods.
- c) Any claim made against DIP in respect of any liability, loss, damage, injury, cost or expense sustained by DIP's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods.

#### **6 Price**

- 6.1 Unless otherwise agreed in writing by DIP all prices shall be exclusive of value added tax but inclusive of all other charges.

#### **7 Auto renewal clauses**

- 7.1 Where the Goods supplied by the Seller are subject to a contract where the terms and conditions of such contract include clauses that automatically renew the term of that contract unless cancelled in advance by DIP, the Seller is hereby notified that the term of the contract shall not continue beyond the initial period unless DIP informs the Seller in writing of such continuation. The initial period shall that be specified on the Order and shall override that specified in any contract or licence.

#### **8 Assignment and sub-contracting**

- 8.1 The Seller shall not assign, sub-contract or transfer this Order in whole or in part, without DIP's prior written consent.

#### **9 Order cancellation**

- 9.1 DIP reserves the right to cancel any Order at any time and for any reason (save for Goods and/or services already delivered and accepted by DIP) by giving the Seller written notice of cancellation. If the Goods are Consultancy or for fabrication of a product DIP shall pay to the Seller fair and reasonable compensation for work-in-progress at the time of termination but no such compensation shall be payable to the Seller for loss of anticipated profits or any consequential loss.
- 9.2 Cancellation of the Order, howsoever arising, shall be without prejudice to the rights and duties of DIP accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

#### **10 Arbitration**

- 10.1 In the event of any dispute arising or in connection with these Conditions being unresolved within sixty (60) days following written notice by one party to the other then the matter shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party to the President for the time being of the Chamber of Commerce whose decision shall be accepted as binding by both parties.

#### **11 Payment terms**

11.1 DIP will pay all correct invoices raised in connection with the Order within thirty (30) days of the Goods being delivered to DIP subject to DIP's acceptance of the Goods, unless longer payment terms are specified within the Order, the time of payment not being of the essence of the Contract.

## 12 Remedies

12.1 Without prejudice to any other right or remedy which DIP may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of this Contract DIP shall be entitled to avail itself of any one or more of the following remedies at its sole discretion, whether or not any part of the Goods have been accepted by DIP:

- a) to rescind the Order;
- b) to reject the Goods (in whole or in part) and to return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller;
- c) at DIP's option to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- d) to refuse to accept any further deliveries of the Goods but without any liability to the Seller;
- e) to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and
- f) to claim such damages as may have been sustained in consequence of the Seller's breaches of the Contract.

## 13 Jurisdiction

13.1 This Agreement shall be governed by and construed in accordance with the law of England. The parties to this Contract irrevocably agree for the exclusive benefit of DIP that the courts of England shall have jurisdiction over any claim or matter arising under or in connection with this Contract and that accordingly any proceedings in respect of any such claim or matter may be brought in such courts. Nothing in this Condition shall limit the right of DIP to take proceedings against the Seller in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdictions.

## 14 Headings to paragraphs and clauses

14.1 Headings to paragraphs and clauses shall not be taken into account in the interpretation of this agreement.

## 15 Force Majeure

15.1 Neither party will be liable to the other party in any way whatsoever for destruction, damage, delay or any other matters of any nature whatsoever arising out of any circumstance or event outside the reasonable control of such party for delay in performance or non performance of their obligations under this Contract and thereafter each party shall take all action within its power to comply with the terms of this Contract.