

# DYSON DIECASTINGS LIMITED CONDITIONS OF PURCHASE

B016/B

## 1. DEFINITION

In these conditions unless the context required otherwise 'Buyer' means Dyson Diecastings Limited.

'Goods' means the subject matter of the contract including (but not limited to) raw materials finished or semi finished material or articles, machinery, parts, spares, commodities etc and where one or a number of items whether or not identical or similar (including any such materials, articles and commodities supplied in connection with the services.

'Order' means a purchase order in respect of the goods and or services issued by the Buyer to the Supplier on the Buyers official purchase order form, together with all documents referred to in it.

'Services' means work and or services or any of them to be performed by the supplier for the Buyer pursuant to the order.

'Suppliers' mean the company, firm, body or person to whom an order is addressed.

## 2. ACCEPTANCE

The Buyer shall not be liable for any order unless

- 2.1 It is issued or confirmed on the Buyers official order form, and
- 2.2 The supplier confirms in writing acceptance of it and these conditions.

## 3. VARIATION

Neither the Buyer nor the Supplier shall be bound by any variation, waiver of or addition to these conditions except as agreed by both parties in writing and signed on their behalf by their duly authorized representatives.

## 4. QUALITY ETC, REMEDIES

- 4.1 Subject to these conditions, the goods and services to be provided shall
  - 4.1.1 Conform as to quality and description with the order and services to be provided shall
  - 4.1.2 Be of first-class materials and workmanship throughout and be executed with reasonable care and skill and by properly qualified and experienced persons.
    - 4.1.3 Be equal in all respects to any samples, patterns, demonstration or specification provided or given by either party.
    - 4.1.4 Be capable of any standard of performance specified in order.
    - 4.1.5 If the purpose for which they are required is indicated in order, either expressly or by implication, be fit for that purpose and
    - 4.1.6 Comply with any statutory rule or regulation that may be in force relating to the goods and/or the services, including the country of shipment and customer identified country of destination, if provided.
- 4.2 The Supplier will keep the Buyer indemnified in respect of all loss, damage, injury, costs and expense which result directly or indirectly from defective workmanship, design or services supplied or provided by the Supplier or any other defect or fault in the construction of the goods and the performance of the services and, in addition, the supplier will repay, replace or reinstate at the Buyer's option, any defective item or items free of charge.
- 4.3 The Supplier will pass down all applicable statutory and regulatory requirements and special product and process characteristics to their suppliers and require the suppliers to cascade the requirements to their suppliers.
- 4.4 Without prejudice to any right or remedy available to the Buyer under statute or common law, the supplier will keep the buyer indemnified in respect of any liability suffered or incurred by the buyer as a result of the supply or use by the supplier of defective goods or workmanship in carrying out the order or which arise as a result of the performance of the services or as a result of any breach of the conditions, warranties, inducements or representations expresses or implied in the contract or any other breach of contract on the part of the supplier, including but not limited to consequential or indirect loss and loss of profits.

## 5. QUALITY SYSTEM REQUIREMENTS

- 5.1 Suppliers of production material shall be registered to ISO 9001, as a minimum, and additionally those suppliers providing material, products or services for automotive customers will be registered to IATF16949 or have a plan to gain certification.
- 5.2 The supplier will monitor the performance of their manufacturing processes.

## 6. QUALITY - Initial Sample Approval (AIAG PPAP)

- 6.1 Supplier agrees to conduct a PPAP of its parts and process, including requalification, to current standards of AIAG PPAP when requested by the buyer.

## 7 INSPECTION AND TESTING

- 7.1 Prior to delivery to the Buyer, the Seller shall adequately inspect and test the goods, including the inspection and maintenance of any Customer defined special controls. The Buyer, its customer or its authorised representative shall be entitled to inspect and test the Goods during manufacture, processing, storage or at the work of any permitted subcontractor or assignee for this purpose, prior to despatch and the Seller shall at the Buyer's request and at no extra cost supply the Buyer with certified copies of all test and/or inspection sheets. The Seller will afford the Buyer or its authorized representative such use of the Seller's equipment and employees as is reasonable in the circumstances in order to facilitate such inspection, testing or verification. No inspection, sampling or approval by the Buyer or its authorised representative will in any way modify or relieve the Seller of its obligations under the Contract.
- 7.2 The supplier will provide relevant material / product test inspection data including material test certificates with each supply or following a specific request from the buyer.
- 7.3 Such inspection does not relieve the supplier of any liability nor does it imply acceptance of the goods or service.
- 7.4 The Buyer reserves the right at its option either to reject any goods or service in whole or in part (whether or not the same have been delivered to and accepted by the Buyer) or to cancel the order or any part of the order or to delay acceptance of the whole of any part of it without any further payment or charge for storage or delay in any of the following circumstances.
  - 7.4.1 Failure by the supplier to comply strictly with the description, specification and drawings relating to goods to be supplied or serviced to be carried out and/or failure to comply with any British or standard specification where applicable.
  - 7.4.2 If the goods or services are below the specified standard or fail to pass any inspection or test in accordance with these conditions or.
  - 7.4.3 If the supplier otherwise fails to comply in all respects with any of its obligations under these conditions.

## **8. PERFORMANCE DELAY**

- 8.1 Unless otherwise agreed in writing, any time or period given for delivery, despatch, performance or completion shall be of the essence the supplier shall immediately notify the buyer of any apprehended delay in delivery, despatched, completion or performance.
- 8.2 The Buyer reserves the right to reject goods or services not delivered or performed on time and/or to cancel the whole or any part of the order of which such goods or services form part and/or to return any goods already delivered which by virtue of such rejection or cancellation are no longer of use. Such rights of rejection, cancellation or return shall be available to the buyer irrespective of the cause of delay without prejudice to the business rights to the damages and any other remedies against the supplier for breach of contract and without any liability whatever nature on the buyer.
- 8.3 No concession with respect to delays in delivery, dispatch, completion or performance shall be construed as a waiver of any of the Buyer's rights and remedies unless such waiver is specifically representative of the buyer.
- 8.4 The buyer reserves the right to reject goods or services which are the whole or part of an order and which are no longer required by the buyer or its customers, due to any approval, permit or licence preferred to in condition 17 not being available.

## **9. SUPPLIER PERFORMANCE.**

- 9.1 The supplier will meet the requirements of Dyson Diecastings Ltd Supplier Performance Report. Dyson Diecastings Ltd will measure the performance of its key suppliers with respect to quality, delivery, commercial and service.
- 9.2 Suppliers are ranked on a 1-4 categorisation to define their potential for gaining new business or to retain existing business. Where required supplier performance is developed.

## **10. DELIVERY, PACKING ETC**

- 10.1 The Supplier shall comply with any and all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 10.2 Deliveries made in advance of the Buyer's requirements may be returned to the supplier at the supplier's expense or accepted at the buyers' option if the buyer accepts them. The buyer shall be entitled to defer payment until the month following the month in which delivery should have taken place.
- 10.3 Scheduled orders only. A scheduled order indicates the buyers estimated requirements for the goods or service described in it. The buyer will not accept delivery or performance of or be in any way liable to pay for any goods or services described in a scheduled order unless the buyer has given the supplier written release or performance of or be in any way liable to pay for any goods or services described in a scheduled order unless the buyer has given the supplier written release or performance instruction which are directly attributable to that scheduled order or unless the buyer has notified the supplier of some other method of instruction for release or performance of goods or services described in a scheduled order.
- 10.4 No responsibility is accepted for goods delivered or services performed in excess of the order.
- 10.5 All goods must be adequately protected against damage and deterioration in transit and delivered carriage paid in accordance with the Buyer's instructions (if given) and the package of goods must bear the description and the quantity of the contents and the buyers order number.
- 10.6 The Supplier shall also ensure that all chemical containers are hazard labelled in accordance with any applicable statutory and regulatory requirements.
- 10.7 The buyer accepts no liability for packing materials or cases unless previously agreed.
- 10.8 The buyer will not be responsible for any failure to give notice to carriers of loss, damage, delay, detention or transit or non-delivery.
- 10.9 The supplier agrees on request to supply the buyer with any necessary declarations and documents stating the origin of the goods.

## **11. PASSING OF TITLE TO THE GOODS**

- 11.1 Title to the goods shall pass to the buyer on delivery to the place specified in the order or as otherwise agreed without prejudice to any right of rejection or other right which may accrue or have accrued to the buyer under these conditions or otherwise.
- 11.2 If the supplier postpones delivery at the Buyer's request, title to the goods shall nevertheless pass to the buyer on the date when, but for such postponement, the goods would have been delivered.
- 11.3 Goods shall be at the risk of the supplier until actually delivered even where the delivery has been delayed or postponed by the buyer or at the buyers' request.
- 11.4 All goods rejected or returned for any reason shall be at the risk of the supplier during transit back to the supplier.
- 11.5 Scheduled orders only. Goods described in a scheduled order which have not been for whatsoever reason, delivered to the buyer may be purchased by the buyer at the same price as that agreed within the order, such purchase to be made at any time within the four weeks following the date of the order and the supplier agrees that delivery of the goods or service will take place in accordance with the Buyer's requirements.

## **12. PRICE AND PAYMENT**

- 12.1 Unless the order expressly accepts or stipulates any provision for price variation and the basis of such variation, the price or rate for goods and any service is fixed and not subjected to variation unless the buyer expressly agrees in writing signed by a duly authorized representative of the Buyer.
- 12.2 Failure by the supplier to attend to any of the following details may mean delay in payment (but with no prompt payment discount to be fortified by the buyer).
- 12.2.1 Failure by the supplier to mark clearly the order number on the consignment package, packing notes, invoices, monthly statement and all other correspondence relating to them.
- 12.3 Payment will be made 60 days after the date of invoice. All payments will be made without prejudice to the buyers right should the goods or any service prove unsatisfactory or not in accordance with the order.
- 12.4 The Buyer reserves the right to deduct from any monies becoming due to the supplier or any monies due from the supplier to the buyer or any account.

## **13. BUYERS PROPERTY, PATTERNS ETC**

- 13.1 All designs, tools, patterns, drawings, dies, materials, specification and other items supplied by the buyer or provided by the supplier shall be or become the Buyer's property, shall be maintained by the supplier in good condition, shall be kept confidential and not be used for any subsequent order placed by the buyer and shall be returned or delivered to the buyer, carriage paid on request. The supplier will be responsible for making good any loss of damage to such items howsoever arising.
- 13.2 The order and its subject matter shall be treated as confidential between the supplier and the buyer and shall not be disclosed by the supplier (or any permitted subcontracting or assignee or supplier) for advertisement, display or publication location without the buyers' prior consent in writing.

13.3 The supplier agrees neither to quote nor to supply parts made with the buyers' designs, tools, patterns, drawings, dies or specifications to any third party without the buyers' prior consent in writing.

#### **14. PATENT INFRINGEMENT**

The supplier will keep the buyer fully indemnified (except in respect of design provided by the buyer) against all claims of whatsoever nature (including those for royalties, damages or other losses) arising from infringement of patents, registered designs, unregistered designs, design rights, copyrights, trademarks or any other intellectual property rights in relation to the order and in relation to the use of articles or processes pursuant to the order.

#### **15. INDEMNITY**

The supplier will keep the buyer indemnified against any claim in respect of any loss or damage to any moveable or immovable property of any nature or type whatever the buyer or any third party and against any claim in respect of the death of or personal injury to any person whether in contract or tort or otherwise arising under common law, statute or otherwise as a result of breach of any statutory or common law duty or of any act or omission on the part of the supplier or any of its employees, subcontractors, assignees or agents or as a result of the performance or non-performance of the order or otherwise however arising wherever such loss, damage, death or personal injury occurs (including but not limited to the buyers premises).

#### **16. TERMINATION**

If the supplier being an individual becomes bankrupt or insolvent or has a receiving order made against him or compounds with his creditors or being a company is wound up or becomes insolvent or has a receiver or administrative receiver appointed or suffers the appointment or the presentation of a petition for the appointment of an administrator, the buyer shall be at liberty (but not bound) at any time after that.

#### **17. ASSIGNMENT AND SUBCONTRACTING**

17.1 The supplier shall not without the consent in writing of the buyer assign or transfer the order or any part of it to any other person.

17.2 The supplier shall not without the consent in writing of the buyer subcontract the order or any part of it other than for materials, minor detail or for any part of the goods of which the makers are named in the order of the specification any such consent shall not relieve the supplier of any of its obligations under the contract.

#### **18. INTERVENTIONS AND IMPROVEMENTS**

When the order includes manufacture to the buyers design the supplier agrees to inform the buyer of any intervention or improvement in the design or method of manufacture arising out of the performance of the order by or on behalf of the supplier and any such invention or improvement and any patent or registered design rights in respect thereof and copyright in any drawings documents or specifications relating thereto shall be the property of the buyer, the supplier will give the buyer to obtain patent, registered design and similar rights throughout the world.

#### **19. HEALTH AND SAFETY**

The supplier warrants the goods or material to be supplied in accordance with the order will be safe and without risk to health when properly used and the supplier will provide all necessary information in connection with the design, testing and use of them (whether or not such information has been requested by the buyer).

#### **20. DISCRIMINATION EQUALITY AND WELSH LANGUAGE**

20.1 In providing the Goods and Services the supplier shall, and shall procure that its employees, consultants, agents or sub-contractors shall:

20.1.1 not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in age, disability, gender reassignment, marriage and civil partnerships, pregnancy, paternity and maternity, race, religion or belief, sex or sexual orientation or otherwise) and shall take all reasonable steps to ensure that its employees, consultants, agents or sub-contractors similarly do not unlawfully discriminate;

20.1.2 without prejudice to the generality of clause 20.1.1, not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and all other relevant legislation and any statutory modification or re-enactment of such legislation;

20.1.3 where in connection with the Contract, the supplier, its agents or subcontractors, or its staff are required to carry out work on the Authority's Premises or alongside the Authority's employees on any other premises, comply with the Authority's own employment policy and codes of practice relating to equality and diversity in the workplace, copies of which are published on the Authority's website;

20.1.4 In the event that the supplier enters into any subcontract or linked agreement in connection with the Contract or any aspect of the Goods and Services provided under it, impose equality and diversity obligations on its subcontractors and other associates in terms substantially similar to those contained in the Contract;

20.1.5 comply with the Welsh Language Act 1993 and the Authority's Welsh Language Scheme (as amended from time to time), a copy of which is available on the Authority's website, as if it were the Authority to the extent that the same relate to the provision of the Services to the public in Wales.

Should the supplier or any of its employees, consultants, agents or sub-contractors breach any part of clause 20.1 the buyer shall be entitled to terminate the Contract with immediate effect by notice in writing to the supplier.

#### **21. LICENCES**

If the performance of the order requires the buyer to have any approval, permit or license from any other government or other authority or other body company or likewise at home or overseas, the order shall be conditional upon such permit or license being available at the required time.

#### **22. INSURANCE**

The supplier will at all times keep itself insured with a reputable insurance company against all insurance liabilities under the order and in respect of the goods or services. The supplier will provide all facilities, assistance and advice required by the buyer's insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the suppliers' performance of the order.

**23. NOTICES**

- a. Any notice or other document to be served under this agreement must be in writing and may be delivered or sent by prepaid first-class letter post or facsimile transmission.

**24. INVALIDITY**

The invalidity, illegality or unenforceability of any provision of these conditions shall not affect the other conditions.

**25. ANTI-BRIBERY**

25.1 The Supplier shall:

- 25.1.1 Comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to, the Bribery Act 2010.
- 25.1.2 Not engage in any activity, practice or conduct which would constitute an offence under sections 1,2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK.

**26. LAW AND APPLICATION**

- a. The contract (and any proceedings by which one party might be entitled to join the other as a third party) shall be governed by and construed in all respects in accordance with English law and the parties hereby submit to the (non) exclusive jurisdiction of the English courts.
- b. These conditions shall have precedence over any conditions appearing on any quotations, acceptance form, delivery form, invoice or other document or letter emanating from the supplier and such conditions shall have no effect whatever except insofar as they are expressly accepted in writing by the buyer.
- c. Nothing in these conditions shall prejudice any condition or warranty (expressed or implied) or right or remedy to which the buyer is entitled in relation to the contract by virtue of statute or common law. The rights and remedies conferred on the buyer by these conditions are in addition to and in no way in substitution for any conditions, warranties or other rights or remedies conferred on the buyer or implied by law.