

GENERAL These **Terms and Conditions** apply in preference to and supersede any Terms and Conditions referred to, offered, or relied on by the Seller at any stage in the dealings between the Buyer and the Seller with reference to the Goods or Services to which this Contract relates. Without prejudice to the generality of the aforementioned, the Buyer will not be bound by any Standard or Printed Terms referred to, or furnished by the Seller in any of its documents, unless the Seller specifically states in writing, separately from such Terms, that such Terms are required to apply, and the Buyer acknowledges this in writing. In this context, quotations referred to in the Contract are referenced only for price, delivery and quality. When this Contract contains other terms and Conditions, and conflict occurs the order of precedence shall be:-

a. An agreed amendment to the Purchase order. **b.** The Terms and Conditions on the face of the Purchase Order. **c.** The Terms and Conditions in any attachments to the Purchase Order. **d.** These Conditions.

1.

DEFINITIONS

a. 'Buyer' shall mean the University of Bristol National Composites Centre and NCC Operations Ltd, jointly referred herein as "NCC". **b.** 'Seller' shall mean the person, firm, or company to whom the Purchase Order is issued. **c.** 'Goods and Services' shall mean all matter, articles, things, or provision of labour to carry out tasks, which are the subject of a Purchase Order. **d.** 'Packaging' includes bags, cases, carboys, cylinder, drums, pallets, tank wagons and other containers. **e.** 'Order' shall mean a duly authorised NCC Purchase Order form, which details the instructions to the Seller. **f.** 'Contract' shall mean the instructions of the Buyer contained in the Purchase Order, any other conditions, or documents referred to in the Purchase Order, and these general conditions accepted by the Seller. **g.** 'Amendment' shall mean any variation to the Contract confirmed by an Authorised Purchase Order Form carrying the words 'Purchase Order Amendment Number'. **h.** 'Authorised' shall mean the signature of the person that is either named or whose status is shown on the face of the Purchase Order. **i.** 'Firm and Fixed Price' shall mean no variation of price nor reconciliation of costs is permitted.

AUTHORITY The Buyer shall not be liable for any order, amendment, letter of intent, or instructions to proceed with orders unless and until authorised, or confirmed, on the original Buyers Order.

PRICES Unless specifically agreed on the Contract, all prices shall be firm and fixed for the duration of the contract, inclusive of carriage, packaging and certification (*where required*) but exclusive of import duty or VAT.

5A QUALITY The goods supplied will be fit for purpose, new and of good construction sound materially, of adequate strength and free of defects in design, materials and workmanship. Notwithstanding the aforementioned, goods supplied must comply with the express terms of the contract and implied conditions, warranties and terms contained in the *Sale of Goods Act 1979*, and *Supply of Goods and Services Act 1982*, any related statutes, and any statutory re-enactment(s) or modification(s) thereof and with any specification of the *British standards Institution* (or equivalent) which is relevant to the Goods and Services at the time of order.

5B YEAR 2000 COMPLIANCE All Goods and Services supplied which contain or depend upon a microprocessor/programmable electronic component, must meet the requirements of BSI Doc. Ref DISC PD2000-1 for Year 2000 conformity and the BSI definition that "Year 2000 conformity shall mean that neither performance nor functionality is affected by dates prior to, during and after the year 2000". The Seller is required to confirm that compliance in writing. Failure to provide written confirmation of compliance will not exclude the Supplier's liability.

PAYMENT a. Provided Goods and Services have been received and comply with the requirements of the Purchase Order, unless otherwise agreed, payment shall be made by the end of the month *following* that in which the invoice is received, or the goods are delivered, *whichever is the later*. **b.** Value Added Tax, where applicable, must be shown separately on all invoices. **c.** Payment may be delayed but no prompt payment discount shall be forfeited by the Buyer, if the Seller fails to mark the Buyers order number on the consignment, package packing notes, invoices, monthly statements and all other correspondence. **d.** Any payment shall be without prejudice to the Buyer's rights, should the goods or services prove unsatisfactory or not in accordance with the contract. **e.** The Contractor shall have the right to charge the NCC interest on any invoices that are not in dispute and are overdue for payment. The rate of interest shall be 4% over the official dealing rate of the bank of England and shall be calculated in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

WARRANTY Without prejudice to any rights that the Buyer may have by statute, Common Law or otherwise, the Seller shall make good, *free of charge*, any defect which may occur within 12 months of use, or 18 months from delivery, whichever is the shortest period. The Seller shall also ensure that the item(s) supplied shall be available, and compatible spares to effect repairs are also available where applicable for a period of **7 years** from the date of order, or for the period shown on the face of the order.

ASSIGNMENT & SUB-CONTRACTING The Seller shall not assign or contract any of its rights or duties under this Contract without the prior written authority of the Buyer. Where permission is given, the Seller shall remain responsible for the performance of the Order, and ensuring that any Assignee complies with the requirements of this Contract. When requested by the Buyer, a copy of sub-order detail will be provided at no charge.

CANCELLATION Any time or period of delivery, dispatch or completion shall be of the essence. The Buyer shall also be entitled to cancel an Order or any part thereof and/or claim reimbursement for all losses and expenses suffered in the event that:

a. The Seller fails to deliver Goods and Services in accordance with the terms of the Order. **b.** The Seller fails to make progress with the Order so as to jeopardise the purpose of the Order. **c.** The Seller being given a reasonable period to rectify the

situation, fails to provide an adequate or satisfactory service. *d.* The Seller becomes bankrupt or insolvent, or has a receiving order made against it, or compounds with its creditors or, being a corporation, commences to be wound up or if the Seller attempts to carry on its business under a receiver for the benefit of any of its creditors.

e. The Seller is the subject of a takeover by or merger with another company.

In the event of cancellation for any of the foregoing reasons, or, in the event of circumstances unforeseen at the time of placing the order resulting in the goods and services being no longer required, the Buyer shall not be liable for any unfulfilled commitment.

PACKAGING, DELIVERY AND MARKING All goods supplied against the Order must be adequately protected against damage and deterioration in transit and delivered, carriage paid. Any information related to the handling and storage of goods upon receipt is to be clearly marked on the packaging and accompanying paperwork.

The goods shall be at the Seller's risk until delivered to the Buyer at the point specified in the Order, unless the Buyer otherwise agrees in writing. Unless otherwise provided in the Order, the Seller shall be considered responsible for the collection and disposal of all returnable packaging at no cost to the Buyer.

PATENTS AND OTHER RIGHTS The Seller will indemnify the Buyer against any claim or infringement of Letters Patent, Registered Design, Trade Mark, or Copyright by the use or sale of any article or material supplied by the Seller to the Buyer and against all costs and damages which the Buyer may become liable in any such action. The Buyer on his part warrants that any instruction furnished or given by him shall not be such as to cause the Seller to infringe any Letters of Patent Registered Design, Trade Mark, or Copyright in the execution of the Purchase Order. In the event that the Seller becomes aware of any such arrangement, notification must be given to the Buyer immediately. Where development forms part of this Order, the ownership of any invention, design or copyright arising from such development, shall be transferred to the Buyer, and the Seller shall co-operate in any measure necessary to make such a transfer effective as soon as any such right arises. The Seller shall treat all information provided by the Buyer as confidential and use such information only for the purposes of performing the Buyer's Order. Where drawings or other data are issued, the Seller shall exercise proper custody and control and return/dispose of such in accordance with the Buyer's instructions.

INDEMNITY The Seller will keep the buyer indemnified in respect of all loss and/or expense which results during proper use directly or indirectly from defective materials, goods workmanship or design, supplied by the Seller, and against any claims for the loss or injury to any person by reason of the Seller's negligence, or any act of omission on the part of the Seller's employees, sub-contractors or agent arising out of the performance of the Order. The Seller will also keep the Buyer indemnified against any damage to the Buyer's property (*including any materials, tools or patterns sent to the Supplier for any purpose*). For these purposes, the Seller will be required to produce evidence of premium receipts for Public Liability insurance coverage of not less than five million pounds sterling or as otherwise shown on the face of the purchase order for any one, or series of claims that may arise. **The Seller will repair, or replace at the Buyer's request any defective items, free of charge.**

SAFETY

a. In accordance with the requirements of the **Health and Safety at Work Act 1974** and any re-enactment or amendment thereof, any safety precautions required for the handling of the material covered by the Order are to be clearly indicated on each consignment. *b.* Hazardous goods must be marked in accordance with **Classification, Packaging and Labelling of Dangerous Substances Regulations 1984** and subsequent amendments. *Risk and Safety notice must be in English.* *c.* Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Seller shall observe the requirements of U.K. and International Agreements relating to the packing, labelling and carriage of hazardous goods. *d.* Hazard data sheets must be supplied with the delivery for all hazardous materials, and the information contained in the data sheets must meet the legal requirements of the **Health and Safety at Work Act** and the **Health and Safety executive Guidance Note HS/G27**.

PROPERTY & RISK Property and risk in the subject matters of the order shall pass to the Buyer at the time of delivery, provided that such passing shall not prejudice either the Buyer's right to reject for non-conformity with specification or any other rights that the Buyer may have under the order, provided that where advance or progress payments are made title but not risk shall pass to the Buyer as soon as items are allocated to the Order. All items so allocated shall be adequately marked and recorded as being the property of the Buyer.

ACCEPTANCE In the case of goods delivered by the Seller not conforming with the Contract whether by reason of not being of quality, or the quantity, or fit for the purpose stipulated, the Buyer shall have the right to reject such goods within a reasonable time of their delivery and to purchase equivalents elsewhere without prejudice to any other right which the Buyer may have against the Seller. Before exercising the said right to purchase elsewhere, the Buyer shall give the Seller reasonable opportunity to replace rejected goods with goods, which conform to the contract. Where the Buyer receives goods as *unexamined*, the Buyer's rights to subsequently reject them if they do not comply with the specification, or claim for shortage, shall not be prejudiced.

**When goods are rejected, they will be returned at the Seller's risk and expense.
The making of payment shall not prejudice the Buyer's right of rejection.**

NCC, Feynman Way Central, Bristol & Bath Science Park, Emersons Green, Bristol, BS16 7FS
www.nccuk.com | +44 (0)117 3707 600 | info@nccuk.com

VARIATIONS The Supplier shall not alter any of the goods, except as directed by the Buyer. The Buyer shall have the right, from time to time during the execution of the Contract, by amendment to the order, to direct the Supplier to add or omit, or otherwise vary, the goods, and Supplier shall carry out such variations and be bound by the same conditions, so far as applicable, as though the said variations were stated in the Contract.

SUSPENSION In the event of any interruption of the Buyer's business due to circumstances beyond the Buyer's control, such as, but not limited to any dispute, fire, explosion or accident which would prevent or hinder the use of goods or services which are the subject of the Order, the Buyer shall have the right to suspend the Order until such circumstances have ceased.

LOSS OR DAMAGE The Seller shall be liable for any loss or damage, (*including any consequential or indirect loss*), howsoever arising, which may be suffered by the Buyer, by reason of any defect in, or failure to perform, on the part of the Goods and/or Services.

USE OF EQUIPMENT Contractors and sub-contractors are not permitted to use for any purposes whatsoever plant or equipment belonging to the NCC.

If any employee of the NCC consents or purports to consent to any such use of its plant or equipment, the person saying the same, does so at his peril and the NCC would accept no liability for the condition of any such plant or equipment or for any injury, loss or damage arising out of the use thereof, however caused.

LAW The construction validity and performance of the Order shall be governed by the law of English and subject to the exclusive jurisdiction of the English courts.

NCC, Feynman Way Central, Bristol & Bath Science Park, Emersons Green, Bristol, BS16 7FS
www.nccuk.com | +44 (0)117 3707 600 | info@nccuk.com