

**L.G.G.CHARLESWORTH LIMITED
CONDITIONS OF BUSINESS GENERAL**

1 In these Conditions :-

- (a) "the Seller" means L.G.G. Charlesworth Limited.
- (b) "the Buyer" means the person, firm or company with whom the Seller contracts;
- (c) "goods and services" means the goods, articles, materials, work services or other items described or referred to in the order and which are to be supplied by the Seller under the Contract ;
- (d) "specification" means the technical description of the goods (if any) contained or referred to in the order or such other description as the Seller and the Buyer may agree in writing;
- (e) "order" means the order placed by the Buyer for the supply of goods and services ;
- (f) "tools" means any designs, computer programmes, dies, patterns, moulds or other tooling, jigs and fixtures provided for the purposes of manufacturing the goods and not for any other purpose.
- (g) "the Contract" means a contract between the Seller and the Buyer for the supply of goods and/or services subject to these conditions and otherwise incorporating only terms expressly agreed or as acknowledged in the Sellers acceptance of order form.

QUOTATIONS AND ORDERS

2(a) A quotation by the Seller shall not constitute an offer capable of acceptance and shall not form part of any binding obligation unless incorporated into an order submitted by the Buyer which is accepted in writing by the Seller. All quotations or estimates issued by the Seller will expire thirty days after the date of issue unless previously withdrawn by the Seller.

(b) Subject to any express provision to the contrary, no order which has been accepted by the Seller shall be varied or waived unless the Seller and the Buyer have so agreed in writing and any terms and conditions which the Buyer seeks to impose are hereby excluded unless expressly acknowledged and accepted by the Seller in writing.

CREDITWORTHINESS

3 The acceptance of an order shall be subject to the approval of the credit of the Buyer by the Seller.

GOODS - DESCRIPTIONS, SAMPLES, COLOUR AND DIMENSIONS AND OTHER ATTRIBUTES

4 (a) Any description of goods in the Buyer's order or any description by the Seller shall be by way of identification only and the use of such description shall not constitute a sale by description.

(b) The production of the sample to the Buyer shall be for the purpose of enabling the Buyer to judge the quality and to approve the same and shall not constitute a sale by sample.

(c) The colour of the goods shall be subject to reasonable variation.

(d) Except as otherwise agreed between the parties, the dimensions stipulated by the Buyer in the order or any drawing shall be observed but the goods shall be deemed to comply with the order and/or drawing notwithstanding any alteration in, or deviation from, such dimensions which do not prevent the goods being used by the Buyer for the purpose intended.

(e) The Buyer shall be responsible for determining the standard and quality of goods and/or services prior to the commencement of bulk deliveries.

PRICES

5 Unless otherwise provided in the Contract :-

(a) Cases or other packing materials shall be non returnable;

(b) where the contract price has been quoted based on stated production runs and specific delivery periods, the Seller reserves the right to increase the price for the goods should the Buyer order quantities less than those stated or require delivery over a different period;

(c) The price of the goods and/or services is exclusive of Value Added Tax which will be charged at the rate applicable at the appropriate tax point.

(d) Subject as provided in the next following subparagraph the price of goods includes the cost of carriage to the contracted place of delivery in the United Kingdom by the means most convenient to the Seller (usually commercial road transport or parcel post) but does not include the cost of off-loading the goods which shall be arranged by the Buyer and performed at its risk and expense. If the Buyer instructs the Seller to send any goods by passenger train, air freight or other special transport, the additional cost will be charged to the account of the Buyer.

(e) The Seller will pass on to the Buyer carriage charges for delivery of goods unless the Seller has agreed to deliver without specific charge.

(f) If after the date of the Seller's acceptance of order, any change shall occur in the cost of any materials or of labour, transport or other items including overheads which the Seller has to pay or incur in the performance of the Contract, the amount of any increase in such costs shall be added to the price or prices stated in the acceptance of order and the Buyer shall pay the resultant increased price or prices.

(g) The cost of any variation or modification to the specification or issue level, materials, drawings or designs of the goods, or any development of the drawings, designs or goods required by the Buyer after the date of the Seller's acceptance of order shall be borne by the Buyer.

COMPONENTS FOR INCORPORATION IN GOODS

6(a) If components are to be provided by the Buyer, the Buyer shall deliver the components in the quantities and at the times required by the Seller, such quantities including a sufficient excess (say 10%) to cover manufacturing losses. Excess components which are not used by the Seller in manufacturing goods will be returned on request.

(b) All such components shall be of suitable quality, shall comply strictly with the dimensions, subject to the tolerances agreed between the parties and shall be delivered to the Seller free of charge in a condition suitable for incorporation in the goods.

(c) The Seller shall not be liable in respect of any defect in the goods which is attributable in whole or in part to defective components supplied by the Buyer and any such defect shall not entitle the Buyer to rescind the Contract, reject the goods or make any deduction from the agreed price.

TOOLS

7(a) Prices quoted for tools shall be subject to variation in respect of all modifications to the tools after the date of the Seller's acceptance of order and such modification shall be at the Seller's discretion, be invoiced and paid for when the Seller agrees to carry out the same and before such modifications are carried out.

(b) The tools are produced for use in the Seller's equipment and may not include a bolster or other carrier. If taken away, the tools may not fit alternative equipment.

(c) The Title to and property in all tools remains vested in the Seller until all outstanding money balances including tool charges, final tool charges, other debts or liabilities whether for tools, goods or services including any unrecovered costs incurred by the Seller in the development of the tool or tools, maintenance to keep such tool or tools in good repair or the cost of replacing any tool or tools, howsoever arising have been paid. The final tool charge will be 25% of the tool charge.

(d) The Seller shall not without the written consent of the Buyer for whom the tools were provided use the same tools for the manufacture of goods on the order of another person.

(e) The Seller shall have the right to destroy tools after the Seller has given to the Buyer not less than 3 months' notice in writing to remove the same and the buyer has failed to do so.

(f) The Seller will only be liable to manufacture and deliver goods during the reasonable life of the tools. Notwithstanding the foregoing provisions of this Condition where the manufacture of further quantities requires the substantial refurbishment of the tools, such refurbishment shall be carried out at the Buyer's expense. (g) Paragraphs (b) to (f) inclusive of this Condition shall continue to have effect as long as the tools remain with the Seller.

DELIVERY AND RISK

8(a) Delivery of the goods shall be made to the Buyer at the place specified by the Seller in its acceptance of order or as subsequently agreed between the parties and the risk in respect of all goods

supplied under the Contract shall pass to the Buyer at the time of delivery. Notwithstanding such delivery, the property in and title of the goods shall not pass to the Buyer except as provided in Condition 9 below.

(b) Where damage or loss occurs to the goods before delivery thereof to the Buyer, the Seller undertakes to replace or (at its discretion and if applicable) to repair free of charge any goods damaged or lost prior to or in the course of delivery in which event the time for delivery of the damaged or lost goods shall be extended for such period as the Seller shall reasonably require for such replacement or repair.

The foregoing undertaking of the Seller is conditional upon :-

(i) the Buyer giving notice in writing of such loss or damage with reasonable particulars thereof to the Seller and to the carrier (if other than the Seller) within seven days of the receipt of the goods or in the case of non-delivery within fourteen days of the Seller's or the carrier's delivery advice or other notification of despatch; and

(ii) the Buyer, if requested by the Seller, returning any damaged goods to the Seller's works carriage paid within one month of receipt thereof.

TITLE

9 Until payment of all sums due to be made under any contract between the Seller and the Buyer have been paid or satisfied in full :-

(a) The title to and property in all goods supplied under the Contract shall remain vested in the Seller (notwithstanding the delivery of the same and the passing of the risk therein)

(b) The Seller may at any time (but without being obliged to do so) recover and resell the goods (if in the Buyer's possession) if any of the events specified in Condition 19 hereof shall occur and/or if any amount owed by the Buyer to the Seller under any contract between them is not paid on the due date for payment. For the purpose of exercising its rights under this paragraph (b), the Seller together with its servants or agents and necessary and appropriate transport shall be entitled to free and unrestricted entry upon the Buyer's premises and/or all other locations where the goods are situated. The rights conferred upon the Seller under this paragraph (b) are in addition to and shall not in any way prejudice limit or restrict any other right or remedy of the Seller under any such Contract; (c) The Buyer shall possess all goods comprised in any such Contract as bailee of the Seller but shall be entitled to use and/or resell the same (whether in their present state or combined to form other articles) in the ordinary course of its business for the account of the Seller and to pass good title in the goods to its customers (being bona fide purchasers for value without notice of the Seller's rights) but such right of use and resale shall automatically cease on the occurrence of any events referred to in paragraph (b) of this Condition;

TIME FOR PERFORMANCE

10(a) The Seller will use its best endeavours to comply with any date or dates for the supply of the goods, samples and/or services as stated in the Contract, but unless the Contract otherwise expressly provides, such date or dates shall constitute only statements of expectation and shall not be binding;

(b) If notwithstanding that the Seller has used its best endeavours, the Seller fails to supply the goods, samples and/or services by such date or dates such failure shall not constitute a breach of the Contract and the Buyer shall not be entitled to treat the Contract as thereby repudiated or to rescind it or any related Contract in whole or in part or to claim compensation for such failure or for any consequential loss or damage resulting there from ;

(c) If the Seller shall be prevented or hindered from supplying the goods, samples and/or services or any part thereof in accordance with the Contract by any circumstances beyond its reasonable control including (but without limiting the generality of the foregoing) strikes, lockouts and other industrial action, inability to obtain materials, and power or machinery breakdown or failure, further performance of the Contract shall be suspended for so long as such circumstances shall exist provided that if the Seller is not able to perform the Contract within a reasonable period after such suspension the Buyer may elect to terminate the contract by notice in writing to the Seller and upon terms that the Buyer shall pay at the Contract rate for all goods and services supplied, work done and materials used by the Seller to the actual date of termination. The Seller shall not have any liability to the Buyer for any direct, indirect

or consequential loss or damage suffered by the Buyer as a result of the Seller's inability to perform its obligations under the Contract in the aforementioned circumstances;

(d) If work shall be suspended at the request of, or delayed through lack of instructions, defective, incorrect or incomplete instructions, or a change of instructions or other default of the Buyer for more than 21 days, the Seller shall be entitled to payment at the Contract rate for work already carried out, materials specifically ordered and any other additional costs thereby incurred including storage;

(e) Where goods are to be supplied or delivered by the Seller in accordance with periodic delivery schedules or similar notification of the delivery requirements of the Buyer, the Buyer shall not be entitled to cancel or vary any such delivery schedule or notification which is expressed to be a firm requirement without prior written consent of the Seller and in giving such consent the Seller shall be entitled to reimbursement of all additional costs and expenses incurred as a result of such cancellation or variation.

QUANTITIES AND INSTALMENTS

11(a) Where goods are delivered by instalments each instalment shall be deemed to be sold under a separate Contract and these conditions shall apply to each such Contract mutatis mutandis. However, no default in respect of any one instalment shall save as provided in Condition 13, affect due performance of the contract as regards other instalments;

(b) The Seller will endeavour to deliver the quantity of the goods ordered and every delivery shall be deemed to comply with the order if there is a surplus or shortage not exceeding 10%.

ACCEPTANCE

12(a) The Buyer shall within fourteen days from the delivery of the goods give notice in writing to the Seller if the goods are to be rejected. Where the Buyer has given notice in writing within fourteen days that the goods are to be rejected, the Buyer shall allow the Seller a further seven days in which either to collect the goods on his own transport or to make other transport arrangements. If the Buyer fails to give notice in accordance with this Condition, the goods shall be deemed to be in accordance with the Contract and the Buyer shall be bound to accept and pay for the same accordingly. Save in the circumstances referred to in Condition 16 below goods accepted by the Buyer cannot subsequently be returned and if such goods are so returned no credit will be given unless otherwise agreed by the Seller in writing;

(b) If after notice of rejection of the goods has been given, the Buyer deals with the goods as owner or any conduct of the Buyer is inconsistent with the rejection or with the ownership of the goods by the Seller, the Buyer shall be bound to pay the price in accordance with the Contract and shall have no claim against the Seller under the Contract;

(c) If the Buyer requests the Seller to postpone delivery on the due date or if the Buyer temporarily refuses to take delivery of the goods for reasons outside the control of the Seller, the Seller may at his option either

(i) demand from the Buyer payment of all sums which the Buyer would have been liable to pay had the goods been accepted and store the goods for the period of the delay, the Buyer being liable to the Seller for the reasonable storage and insurance charges and any additional costs of handling and transporting the goods or

(ii) give to the Buyer not less than fourteen days notice in writing terminating the Contract (or so much thereof as is unfulfilled on the date the notice expires) and recover from the Buyer as damages the amount of any loss, expense or other damage suffered by the Seller as a result of the termination.

PAYMENT

13(a) Unless the Contract otherwise provides, the price for the goods and/or services shall be payable by the last day of the month following the month in which delivery is made ;

(b) Where goods and/or services are delivered or performed by instalments, each instalment delivered and/or performed shall be paid for upon the terms set out in subparagraph (a) above;

(c) The time stipulated for payment shall be of the essence of the Contract and any failure by the Buyer to pay for goods delivered or services performed or for any one or more instalments delivered or performed within the time stipulated shall entitle the Seller at its option to withhold further deliveries or performance until payment is made or to terminate the Contract in respect of the whole or any part thereof which remains unperformed and to recover damages for breach of the Contract ;

(d) The Seller shall be entitled to interest on any part of the Contract price not paid by the due date from that date until payment at the rate of 4% per annum above the Base Rate of Midland Bank Limited prevailing from time to time during such period.

DRAWINGS, DESIGNS AND SPECIFICATIONS

14 The Seller accepts no responsibility for the accuracy or suitability of any component part required by the Buyer or any patent, design, drawing, computer programme or specification supplied by the Buyer or produced by the Seller on behalf of, and approved by, the buyer who shall accept full responsibility for all such matters. The Buyer hereby undertakes to indemnify the Seller and to keep the Seller at all times fully and effectually indemnified from and against all claims, costs, losses, damages, expenses, fees, royalties, penalties, levies, interest charges, demands or other liabilities which the Seller may suffer or incur as a result of any defect in the goods whether of quality, design, specification, suitability or fitness for purpose or in any other way whatsoever, or in respect of any claim by any third party for infringement of any intellectual property rights or other rights.

QUALITY AND FITNESS

15(a) The Seller shall not be responsible for the quality or fitness of the goods and/or services for any purpose whether or not such purpose is made known by the Buyer to the Seller and the Buyer shall take the goods at his own risk as to their quality or fitness for such purpose.

(b) No warranty condition description or representation is to be taken to have been given or implied from anything said or written in the negotiations between the parties or their representatives before the acceptance of the order by the Seller and any statutory or other warranty condition or description express or implied is hereby expressly excluded, other than the conditions and warranties implied by the Sale of Goods Act 1979 (as amended).

WARRANTY

16(a) Where any goods or services or any part of them are shown, to the reasonable satisfaction of the Seller, to be defective under proper use and storage conditions (fair wear and tear and defects which ought to have been apparent upon reasonable inspection carried out by the Buyer in accordance with the provisions of Condition 12 hereof excepted) by reason of faulty materials or workmanship, within a period of three months from the date of delivery of the goods or the completion of the supply of the services, the Seller shall at its option :-

- (i) deliver replacement goods and/or supply further services to the Buyer free of charge ; or
- (ii) refund to the Buyer the Contract price for such goods and/or services PROVIDED THAT in each case all defective goods are first returned to the Seller's premises carriage paid by the Buyer and PROVIDED FURTHER that the Sellers liability in respect of any such defects and for any loss injury or damage attributable thereto shall be limited to the invoice value of the goods and/or services supplied;

(b) Save as aforesaid (and save in respect of death or personal injury resulting from negligence of the Seller its servants or agents) as provided in the Unfair Contract Terms Act 1977 (as amended) the

Seller shall not be liable for any claim or claims for direct or indirect consequential or incidental injury, loss or damage made by the buyer against the Seller, whether in contract or in tort (including negligence on the part of the Seller, its servants or agents) arising out of or in connection with, any defect in the goods or any act omission neglect or default (whether or not the same constitutes a fundamental breach of the Contract or the breach of a fundamental term thereof) of the Seller, its servants or agents in the performance of the contract;

(c) In the event of the Buyer dealing as a "consumer" as defined in the Unfair Contract Terms Act 1977(as amended) nothing in these Conditions shall operate to exclude any warranty or condition implied by the said Act nor to diminish the statutory rights and remedies of the Buyer.

INDEMNITIES

17(a) The Buyer shall indemnify the Seller in respect of any costs, expenses, damages, losses, claims or liability arising out of or alleged to be caused by the goods or their use; and

(b) The Buyer shall indemnify the Seller in respect of any action, claims, demands, costs, fees, charges and expenses incurred, or any losses or injury suffered, by the Seller by reason of any claim made or threatened by legal proceedings or otherwise in respect of any infringement or alleged infringement of letters patent or copyright (whether registered as a design or not) or any other similar right, including rights arising from any disclosure in confidence of details of or relating to the goods or the means or process of their manufacture or production, being details of which any person may restrict or prohibit from being published or used. LIEN 18 Without prejudice to any other remedies which the Seller may have, the Seller shall in respect of all debts due and payable by the Buyer to the Seller have a general lien on all goods, materials and property belonging to the Buyer in its possession (whether worked on or not) and shall be entitled upon the expiration of fourteen days notice to the Buyer to dispose of such goods, materials or property as it thinks fit and to apply any proceeds of sale thereof towards the payment of such debts.

INSOLVENCY AND BREACH OF CONTRACT

19 In the event that :- (a) The Buyer shall commit any breach of the Contract and shall fail to remedy such breach (if capable of remedy) within a period of thirty days from receipt of notice in writing from the Seller requesting such remedy; or

(b) Any distress or execution levied upon any of the goods or property of the Buyer; or

(c) The Buyer, being an individual, or, where the Buyer is a firm, any partner in the firm, at any time commits an act of bankruptcy or has a receiving order or administration order made against him or makes a composition or arrangement conveyance or assignment for the benefit of his creditors or purports to do so, or being a company, goes into liquidation whether voluntary or otherwise (not being for the purposes of amalgamation or reconstruction) or has a receiver or manager appointed. The Seller shall thereupon be entitled without prejudice to its other rights here under, forthwith to suspend all further supplies or work until the default has been made good or to determine the Contract or any unfulfilled part thereof or at the Sellers option to make partial deliveries. Notwithstanding any such termination, the Buyer shall pay to the Seller at the Contract rate for all work done, materials used and goods delivered up to and including the date of termination.