

Terms and Conditions of Purchase of Goods and Services ("Conditions") of **ASD LIMITED** incorporated and registered in England and Wales with company number 01370600 and having its registered office at Valley Farm Road, Stourton, Leeds LS10 1SD; and **ASD WESTOK LIMITED** incorporated and registered in England and Wales with company number 04486009 whose registered office is at Valley Farm Road, Stourton, Leeds, West Yorkshire LS10 1SD. Both ASD Limited and ASD Westok Limited shall be referred to in this Agreement as "**ASD**"

**1. Agreement**

- 1.1** This Agreement applies to the exclusions of any other terms that the Supplier seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.
- 1.2** Clause and Schedule headings shall not affect the interpretation of this Agreement.
- 1.3** The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.4** Unless the context otherwise requires, words in the singular shall include the plural and in the plural, shall include the singular.
- 1.5** A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6** Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

**2. Commencement and Duration**

This Agreement will come into effect on the date set out in the Purchase Order and will continue for the term stated in the Purchase Order unless terminated earlier by either party as set out in these terms and conditions.

**3. Supply of Goods**

- 3.1** The Supplier shall ensure that any Goods supplied by the Supplier to ASD ("Goods") shall:
  - 3.1.1** correspond with their description and any applicable specification for the Goods, including related plans and drawings, agreed in writing by ASD and the Supplier;
  - 3.1.2** be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by ASD, expressly or by implication, and in this respect ASD relies on the Supplier's skill and judgement;
  - 3.1.3** where they are manufactured, be free from defects in design, materials and workmanship and remain so for 24 months after the Delivery Date; and
  - 3.1.4** comply with all applicable laws, regulations, regulatory policies, guidelines or requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods including all relevant quality standards applicable to such Goods.
- 3.2** The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and

- permits that it needs to carry out its obligations under this Agreement in respect of the Goods.
- 3.3** ASD may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under this Agreement.
- 3.4** If following such inspection or testing ASD considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, ASD shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5** ASD may, at the Supplier's expense, conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.6** Where the Goods are supplied and are in breach of this clause 3 (including, but not limited to suffering from damage, not corresponding with the specification or not fit for their intended purpose,) the Supplier shall remedy the issue by providing replacement Goods within 60 days of the date of notification by ASD to the Supplier. Where such issues are not rectified within 60 days' to ASD's satisfaction ASD reserve the right to scrap the material & debit the Supplier for the full cost of the material.
- 4. Delivery of Goods**
  - 4.1** The Supplier shall ensure that:
    - 4.1.1** the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
    - 4.1.2** each delivery of the Goods is accompanied by a delivery note which shows the date of the order, the order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), the weight of the Goods, any special handling or storage instructions and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
    - 4.1.3** it states clearly on the delivery note any requirement for ASD to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
  - 4.2** Unless otherwise notified to it by ASD, the Supplier shall deliver the Goods on the delivery date and at the delivery location specified in the Purchase Order during ASD's normal hours of business.
  - 4.3** Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
  - 4.4** Where Goods are delivered in instalments, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle ASD to the remedies set out in clause 5.
  - 4.5** Title and risk in the Goods shall pass to ASD on delivery of the Goods (whether in full or in part if delivery is made by instalments) at the Delivery Location.
- 5. Supply of Services**
  - 5.1** The Supplier shall from Service Commencement Date (as specified in the Purchase Order) and for the duration of this

- Agreement supply any Services supplied by the Supplier to ASD ("Services") in accordance with the terms of this Agreement.
- 5.2** The Supplier shall meet any performance dates specified by ASD and time is of the essence in relation to any of those performance dates.
- 5.3** In providing the Services, the Supplier shall:
  - 5.3.1** co-operate with ASD in all matters relating to the Services, and comply with all instructions of ASD;
  - 5.3.2** perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 5.3.3** use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;
  - 5.3.4** ensure that the Services and Deliverables will conform with all descriptions and specifications made known to ASD, and that any documents, products and materials created or developed by or on behalf of the Supplier as part of or in connection with the provision of the services ("Deliverables") shall be fit for any purpose that ASD expressly or impliedly makes known to the Supplier;
  - 5.3.5** provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 5.3.6** use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to ASD, will be free from defects in workmanship, installation and design;
  - 5.3.7** obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - 5.3.8** comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services including all relevant quality standards applicable to such Services;
  - 5.3.9** comply with any restrictions on trade and import including but not limited to The Russia (Sanctions) (EU Exit) Regulations 2019 and any successive legislation and the Supplier understands that it is a condition of this Agreement that no Goods supplied originate from and have not been exported from Russia and/or Belarus or other prohibited territories and that the Supplier and any person connected with the Supplier are not on any restricted lists within the EU, US and UK. The Supplier will ensure that mill test certificates are supplied with each delivery and are noted with a non-Russian country of origin and that no third country processing has taken place to conceal the Russian origin of metallurgical products and that no any payments made to the Supplier will directly or indirectly, or even in part, be used to finance any natural or legal persons subject to any EU, US or UK.
  - 5.3.10** comply with all relevant policies of ASD, including but not limited to ASD's Supplier Code of Conduct at <https://asd.ltd/terms-conditions/>;
  - 5.3.11** observe all health and safety rules and regulations and any other security requirements that apply at any of ASD's

- premises;
- 5.3.12** hold all documents, information, items and materials in any form (whether owned by ASD or a third party) which are provided by ASD to The Supplier in connection with the Services ("ASD Materials") in safe custody at its own risk, maintain ASD Materials in good condition until returned to ASD, and not dispose or use ASD Materials other than in accordance with ASD's written instructions or authorisation; and
- 5.3.13** not do or omit to do anything which may cause ASD to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that ASD may rely or act on the Services.

**Customer Remedies**

- 5.4** If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, ASD shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:
  - 5.4.1** to terminate this Agreement with immediate effect by giving written notice to the Supplier;
  - 5.4.2** to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - 5.4.3** to recover from the Supplier any costs incurred by ASD in obtaining substitute goods and/or services from a third party;
  - 5.4.4** to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - 5.4.5** to claim damages for any additional costs, loss or expenses incurred by ASD which are in any way attributable to the Supplier's failure to meet such dates.
- 5.5** If the Goods are not delivered by the Delivery Date, ASD may, at its option, claim or deduct 2% of the price of the Goods for each week's delay in delivery by way of liquidated damages, up to a maximum of 10% of the total price of the Goods.
- 5.6** If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, ASD shall have one or more of the following rights, whether or not it has accepted the Goods:
  - 5.6.1** to terminate this Agreement with immediate effect by giving written notice to the Supplier;
  - 5.6.2** to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - 5.6.3** to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
  - 5.6.4** to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 5.6.5** to recover from the Supplier any expenditure incurred by ASD in obtaining substitute goods from a third party; and
  - 5.6.6** to claim damages for any additional costs, loss or expenses incurred by ASD arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

- 5.7** This Agreement shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 5.8** ASD's rights under this Agreement are in addition to its rights and remedies implied by statute and common law.
- 6. ASD Obligations**
  - 6.1** ASD shall:
    - 6.1.1** provide such necessary information for the provision of the Goods and/or Services as the Supplier may reasonably request; and
    - 6.1.2** provide access to ASD's premises or facilities as may reasonably be requested by The Supplier and agreed with The Supplier in writing in advance, for the purposes of this Agreement.
- 7. Pricing and Payment Terms**
  - 7.1** In consideration of the provision of the Goods and/or Services by The Supplier, ASD agrees to pay the Price in accordance with the Purchase Order.
  - 7.2** The Price shall be inclusive of the costs of packaging, insurance and carriage of the Goods and include all costs and expenses of the Supplier directly or indirectly incurred in connection with the performance of the Services.
  - 7.3** Unless otherwise set out in the Purchase Order or agreed in writing by the parties, the Supplier shall invoice ASD after completion of delivery of the Goods and/or on completion of the Services (as applicable).
  - 7.4** ASD shall pay each invoice within 60 days of the end of the month of receipt, or such other date as agreed in writing between the parties, to a bank account nominated in writing by The Supplier from time to time.
  - 7.5** ASD may at any time, without notice to the Supplier, set off any liability of the Supplier to ASD against any liability of ASD to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. Any exercise by ASD of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.
  - 7.6** The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow ASD to inspect such records at all reasonable times on request.
- 8. Intellectual Property**
  - 8.1** For the purpose of this clause 8, Intellectual Property Rights shall mean any patents, copyright, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, know-how and trade secrets and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will

- 8.2** subsist now or in the future in any part of the world. ASD will own any Intellectual Property Rights existing in the ASD Materials and any Deliverables. ASD grants the Supplier a personal, non-exclusive, non-transferable licence to use the ASD Materials for the purposes of this Agreement.
- 8.3** The Supplier will own any Intellectual Property Rights existing in all documents, information, items and materials in any form (whether owned by The Supplier or a third party), which are used by the Supplier in connection with the provision of the Goods and/or Services ("the Supplier Materials"). The Supplier grants ASD a personal, non-exclusive, non-transferable licence to use the Supplier Materials for the purposes of this Agreement.
- 9. Limitation on Liability**
  - 9.1** Nothing in this Agreement shall limit or exclude ASD's or the Supplier's liability for:
    - 9.1.1** death or personal injury caused by its negligence, or the negligence of its personnel, agents or sub-contractors;
    - 9.1.2** fraud or fraudulent misrepresentation; or
    - 9.1.3** breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) any other liability which cannot be limited or excluded by applicable law.
  - 9.2** Subject to clause 9.1, ASD shall not have any liability to the Supplier whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profits, goodwill, business opportunities or anticipated savings or benefits, or for any loss of corruption of data or for any indirect or consequential loss arising under or in connection with this Agreement.
  - 9.3** ASD's total aggregate liability to the Supplier, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the Price paid by ASD under this Agreement in the 12 months preceding the date the liability arose.
- 10. Representations and Warranties and Undertakings**
  - 10.1** Each party represents, warrants and undertakes to the other that:
    - 10.1.1** it has full capacity and authority to enter into and to perform this Agreement;
    - 10.1.2** this Agreement is executed by a duly authorised representative of that party;
    - 10.1.3** there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against of affecting that party before any court or administrative body that might affect the ability of that party to meet and carry out its obligations under this Agreement;
    - 10.1.4** it conducts its business in a manner that is consistent with the Mandatory Policies; and
    - 10.1.5** once duly executed this Agreement will constitute its legal, valid and binding obligations.

**11. Indemnity**

- 11.1** The Supplier shall indemnify ASD against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ASD arising out of or in connection with:
- 11.1.1** any claim made against ASD for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding ASD Materials);
- 11.1.2** any claim made against ASD by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; or
- 11.1.3** any claim made against ASD by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services;

**12. Confidential Information**

- 12.1** For the purpose of this clause 12, Confidential Information shall mean any and all information and data of a confidential or proprietary nature in whatever form and on whatever media (whether written, oral, visual, electronic, magnetic or other media) which includes: commercial, financial, business, customer, the Supplier, marketing, third party, technical or other information (including, inventions, ideas, designs, formulae, strategies, software, know-how and trade secrets); the fact that discussions are taking place concerning this Agreement; any information that is identified as being of a confidential or proprietary nature; any information which at the time of disclosure is or should be regarded as confidential or proprietary having regard to the nature of the information and the circumstances of the disclosure; and any information, findings, data or analysis derived from the afore-mentioned.
- 12.2** Each party undertakes at any time during this Agreement, and for a period of 2 years after termination, not to disclose, copy or use any Confidential Information except as permitted by clause 12.3.
- 12.3** Each party may disclose the other party's Confidential Information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

**13. Data Protection**

- 13.1** In this clause 13 the terms "Controller", "Data Subject", "Personal Data", "Processing" and "Processor" shall have the meanings given to them in UK Data Protection Laws (including but not limited to the Data Protection Act 2018 and any amendment or other regulation in respect of the same) and "Process" and "Processed" shall be construed

- accordingly. ASD and the Supplier shall each process personal data in order to perform their respective obligations under this Agreement ("the **common data**"). The parties acknowledge that the factual arrangement between them dictates the role of each party in respect of data protection laws but, in most instances, ASD and the Supplier shall each be a Controller of the Common Data in common with the other.
- 13.2** In respect of the Common Data, ASD and the Supplier shall each comply with their respective obligations under all relevant data protection laws, use all reasonable efforts to assist the other to comply with such obligations as are respectively imposed on them by the data protection laws and ensure that all fair processing notices (where applicable) have been given and/or applicable consents obtained and are sufficient in scope to enable the other party to Process the Common Data as required in order to obtain the benefit of its rights and to fulfil its obligations under the Agreement in accordance with data protection laws.
- 14. Termination and Consequences of Termination**
- 14.1** Without affecting any other right or remedy available to it, ASD may terminate this Agreement:
- 14.1.1** with immediate effect by giving written notice to the Supplier if:
- a)** there is a change of Control (as defined by section 1124 Corporation Tax Act 2010) of the Supplier; or
  - b)** the Supplier's financial position deteriorates to such an extent that in ASD's opinion the Supplier's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy.
- 14.1.2** for convenience by giving the Supplier 30 days' written notice.
- 14.2** Without affecting any other right or remedy available to it, either party may terminate this Agreement immediately on written notice to the other if:
- 14.2.1** the other party commits a material breach of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days of being notified in writing to do so;
  - 14.2.2** the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - 14.2.3** a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
  - 14.2.4** an application is made to the court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
  - 14.2.5** the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 14.3** On termination of this Agreement, the Supplier shall immediately deliver to ASD all Deliverables whether or not then complete and return all Customer Materials. If the Supplier fails to do so, then ASD may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible

- for their safe keeping and will not use them for any purpose not connected with this Agreement.
- 14.4** The expiry or termination of this Agreement shall not affect the accrued rights, remedies, obligations or liabilities of the parties under it existing at expiry or termination.
- 14.5** The following clauses shall continue in force: clause 8 (Intellectual Property), clause 9 (Limitation of Liability), clause 10 (Indemnity), clause 12 (Confidentiality), clause 13 (Data Protection), clause 14.3 (Consequences of Termination), clause 15 (Force Majeure), clause 16 (Insurance) and clause 17 (General), and any other provision of this Agreement which expressly or by implications is intended to continue.
- 15. Force Majeure**
- 15.1** Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 Business Days or more, the party not affected may terminate this Agreement by giving 5 Business Days' written notice to the other party.
- 16. Insurance**
- 16.1** During the Term and for 6 years thereafter, the Supplier shall, at its expense, maintain in force with a reputable insurance company, adequate insurance covering the supply of the Goods and/or Services and its liabilities under this Agreement including as a minimum employer's liability insurance for no less than £10,000,000, public liability insurance for no less than £5,000,000 and product liability insurance for no less than £5,000,000 in each case per event increasing annually in accordance with the UK retail prices index. The Supplier shall, on ASD's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 17. TUPE**
- 17.1** The parties believe and intend that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (the "Regulations") will not apply to the provision of the Services (or part thereof) provided under this Agreement.
- 17.2** The Supplier warrants that on and immediately prior to the date of this Agreement there are no employees assigned to an organised grouping of employees which had as its principal purpose the carrying out of the Services (or part thereof) under this Agreement and the Supplier warrants that it shall not assign any employee to an organised grouping of employees which has as its principal purpose the carrying out of the Services (or part thereof).
- 17.3** If the Regulations apply on the termination of the provision of Services (in whole or in part) ASD or a successive supplier may dismiss that employee and the Supplier shall indemnify

and keep ASD indemnified against all employment liabilities arising from the transfer and /or the dismissal.

**18. General**

**18.1 Dispute Resolution:** Subject to either party's rights and remedies under this Agreement, the parties agree to use all reasonable efforts to negotiate and amicably resolve any disputes in relation to this Agreement by senior level negotiations.

**18.2 Publicity:** The Supplier shall not make any public announcement regarding the existence or subject matter of this Agreement without the prior written consent of ASD.

**18.3 Notices:** Any notice given in respect of this Agreement shall be deemed to have been given if delivered personally (including by courier) to either party at their respective registered offices, or at such other address as may be notified by either party from time to time in writing, at the time of delivery or if sent by prepaid, recorded delivery, or first class

post in the UK, 2 Business Days after posting or if outside the UK 7 Business Days after posting.

**18.4 Assignment:** The Supplier shall not assign nor in any manner transfer any interest or claim in this Agreement to any third party, unless authorised in advance in writing by ASD, such authorisation not to be unreasonably withheld or delayed.

**18.5 Sub-contracting:** The Supplier may only sub-contract its rights or obligations under this Agreement with ASD's prior written consent.

**18.6 Severability:** If any provision of this Agreement (or part of any provision) is held by any competent authority to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

**18.7 Amendment:** No amendment or variation of this Agreement shall be effective unless it is in writing and signed by an authorised representative of the parties.

**18.8 Entire Agreement:** This Agreement constitutes the whole Agreement between the parties and supersedes all previous Agreements between the parties relating to its subject matter.

**18.9 No Partnership or Agency:** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture or agency arrangement between the parties and neither party shall have the authority to act in the name or on behalf of or otherwise bind the other in any way.

**18.10 Third Party Rights:** A person who is not a party to this Agreement may not enforce any of its terms under this Agreement (Rights of Third Parties) Act 1999.

**18.11 Law and Jurisdiction:** This Agreement and any non-contractual rights or obligations arising out of or in relation to it, shall be governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the English courts for any dispute arising in connection with this Agreement.