

Exception PCB Limited Terms and Conditions of Purchase

1 Definitions and Interpretation

1.1 In these Conditions unless the context otherwise requires: "Conditions" means these terms and conditions and any special terms and conditions agreed in writing between the Customer and the Supplier; "Contract" means any contract between the Customer and the Supplier for the purchase of Goods and/or Services including any Principal Contract; "Customer" means Exception PCB Limited (Registered No 1338479) whose registered office is at Alexandra Way, Ashchurch Business Centre, Tewkesbury, Gloucestershire GL20 8NB; "Goods" means the goods (including any part or parts of them) which the Supplier is to provide to the Customer pursuant to the order in accordance with these Conditions; "Intellectual Property Rights" means any patent, copyright, database right, moral right, design right, registered design, trade mark, service mark, domain name, know-how, utility model, unregistered design or, where relevant, any application for any such right, or other industrial or intellectual property right subsisting anywhere in the world; "Order" means any order from the Customer to the Supplier in accordance with Condition 2.2 for the supply of Goods or Services in such form as the Customer may determine from time to time; "Principal Contract" means any contract or arrangement the Customer has with a third party in accordance with which the Customer is obliged to provide goods or services comprising in whole or in part or dependent upon (whether in whole or in part) provision by the Supplier of the Goods or Services; "Services" means the services which the Supplier is to provide to the Customer pursuant to the Order in accordance with these Conditions; "Specification" means the Customer's specifications or stipulations for the Goods and/or Services notified in writing to the Supplier; "Supplier" means the person, firm or company to whom the Order is addressed.

2 Basis of Contract

2.1 The Contract will be subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Supplier purports to apply under any quotation, Order acknowledgement or any other document issued by the Supplier).

2.2 The Order is an offer made by the Customer to the Supplier and the Contract shall come into effect upon acceptance of the Order by the Supplier. Unless previously withdrawn by the Customer, Orders shall be deemed accepted if not rejected by the Supplier by notice in writing within seven (7) days of their date. The Order number must be quoted on all correspondence and all invoices relating to such Order.

2.3 Orders identified as Release Materials shall be subject to the issue of a certificate of conformity, shall be subjected to batch traceability and shall be in accordance with DEF-STAN 05-61.

2.4 All terms and conditions of any Principal Contract applicable to the Customer's Order are incorporated herein so far as the same are applicable hereto. Particulars of the relevant conditions thereof will be supplied to the Supplier upon request and the Supplier is accordingly deemed to contract with full notice of the contents thereof, and to be bound thereby as fully as if the same had been expressly set out in this Contract. In the event of any conflict or inconsistency between the conditions of any Principal Contract and these Conditions the condition of the Principal Contract shall prevail.

3 Delivery

3.1 Delivery of the Goods shall take place DDP (Incoterms) at the Customer's premises or as so directed by it (unless otherwise agreed between the parties) and in any event strictly in accordance

with the Customer's delivery instructions whether given in the Order or separately. A delivery note must accompany all goods stating the Customer's order number and full details of the goods.

3.2 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions but if there is any conflict between the provisions of Incoterms and these Conditions, these Conditions shall prevail.

3.3 Time of delivery is of the essence of the Contract. The Customer shall be under no obligation to accept delivery of the Goods before the specified delivery time, but reserves the right to do so.

3.4 The Customer shall have the right to change its delivery instructions, without liability, at any time on giving reasonable notice or, in the case of international suppliers of Goods, before shipment of the Goods in question.

3.5 The Customer shall not be obliged to accept quantities of the Goods which vary from those specified in the Specification or the Order and accepts no liability for acceptance of and payments for excess deliveries.

3.6 The Goods will be properly packed and secured in such a manner as to reach their destination undamaged and in good condition. The Customer shall not be obliged to return to the Supplier any packaging materials for the Goods. The Customer shall be entitled to require the Supplier to take back packaging materials at no cost to the Customer.

3.7 If Goods supplied against an Order detail shelf life, the Customer reserves the right to reject such Goods if on delivery less than 85% of the shelf life remains.

3.8 If the Goods are to be delivered or Services performed by instalments the Contract will be treated as a single contract and will not be completed until the final delivery of the Goods has been made or Service performed.

4 Acceptance

4.1 The Customer shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery or after any latent defect has become apparent. For the avoidance of doubt any inspection or testing by the Customer whether before or after delivery of the Goods nor the signing of any delivery note or other document acknowledging physical receipt of any Goods shall be deemed to constitute or evidence acceptance or approval of the Goods for the purposes of the Sale of Goods Act 1979 (as amended) or be deemed a waiver of the Customer's rights either to cancel or return all or any part thereof where the Goods are found to be defective or not in accordance with the Contract, Order and Specification.

4.2 The Supplier shall promptly keep the Customer informed of any matter of which it is or reasonably should, as supplier of the Goods, be aware relating to the storage, transportation, handling, assembly or use of the Goods by the Customer (including legislation or advice from responsible or professional or legal bodies in respect of raw materials used in the manufacture of the Goods) and the actions it has taken or proposes to take and those that the Customer should take in relation to such matters.

4.3 A representative duly authorised by the Customer shall have access at all reasonable times to the Supplier's premises and shall be allowed to inspect and examine the material to be supplied during performance of the Contract. Prior notice will be given of the Customer's intention to send such a representative.

5 Title and Risk

5.1 The Goods shall be at the risk of the Supplier until they are delivered in accordance with the Contract when, without prejudice to any right of rejection which the Customer may have under the Contract or by law, title to and risk in the Goods shall pass to the Customer, provided that if the Customer pays for the Goods prior to delivery, title to the Goods shall pass to the Customer when payment is made.

6 Provision of Services

6.1 If the Contract is for or includes Services (including subcontracting) to be performed by the Supplier, then the Supplier undertakes, represents and warrants to the Customer that: (a) the Supplier shall carry out the Services strictly in accordance with the Order and the Specification; (b) the Services will be performed by appropriately qualified and trained personnel with due care and diligence and to such high standard of quality as it is reasonable for the Customer to expect in all the circumstances; (c) the time of performance of the Services is of the essence of the Contract; (d) at the Customer's request, all drawings and specifications delivered to the Supplier shall be returned to the Customer forthwith; and (e) free issue material remains the property of the Customer. The material must be separately identified and used exclusively for Orders placed by the Customer and covered by the Supplier's comprehensive insurance for any loss depreciation or deterioration however caused. Any unused material shall be returned promptly to the Customer.

7 Prices and Payment

7.1 The price of the Goods and/or Services shall be stated in the Order. The price shall be inclusive of all packaging, packing, labelling, insurance, delivery costs and all other costs incurred by the Supplier in relation to the Goods and their delivery DDP unless otherwise specified in the Order.

7.2 All sums payable under the Contract are exclusive of VAT which shall be added if appropriate at the rate prevailing at the relevant tax point but inclusive of any other applicable tax or duty payable upon such sums.

7.3 The Supplier may only invoice the Customer on or after delivery of the Goods or completion of the performance of the Services and invoices submitted early shall be deemed received on the date of delivery of the Goods or date of completion of the performance of the Services. Invoices shall be in such form as the Customer specifies from time to time and shall be addressed to the Accounts Department at the trading address for the Customer set out in the Order. The Customer's Order number shall be quoted clearly on each invoice and on all invoice correspondence and advice notes.

7.4 Unless otherwise stated in the Order, the Customer shall pay the price of the Goods or Services within 60 days after the end of the month of the later of: (a) receipt by the Customer of an invoice issued in accordance with Condition 7.3; (b) or after acceptance of the Goods or Services by the Customer.

7.5 If any sums are due to the Customer from the Supplier, then the Customer shall be entitled to exercise the right to set-off such sums against any payments due to the Supplier from the Customer under or in relation to this or any other Contract. The Supplier shall not be entitled to apply any amount due to the Customer under the Contract in or towards payment of any sum owing by the Customer to the Supplier in relation to any matter whatsoever. No interest shall be payable by the Customer under this Contract in any circumstances whatsoever.

8 Warranties

8.1 The Supplier undertakes, represents and warrants to the Customer that the Goods and their packaging and labelling shall: (a) be accompanied with accurate, complete and comprehensible instructions for the treatment, assembly, use and/or storage of the Goods; (b) conform to the Specification and with any instructions of the Customer, and shall otherwise meet the requirements of the Order and this Contract; (c) be of satisfactory quality, free from defects in materials and workmanship and fit for their intended purpose (whether such purpose is implied or expressly stated in the Specification, Orders or Contract); (d) be free from design and other inherent defects (save to the extent that the Goods have been supplied in accordance with designs of the Customer); (e) comply with any applicable statute, statutory rule, order, directive, regulation or other instrument having force of law (including any directive or order promulgated by any competent supra-national body), all British and European standards, UKAS (United Kingdom Accreditation Service) and all other legislation for the time being in force relating without limitation to the manufacture (including raw materials or chemicals used in the production process), packaging, delivery, carriage, storage, installation and use of the Goods; (f) conform strictly as to quality, quantity and description with any samples provided by the Supplier for the purpose of supply of Goods of that type.

8.2 The Supplier shall use its best endeavours to transfer or assign to the Customer or otherwise obtain for the benefit of the Customer any guarantee, warranty or other confirmation of quality, title or fitness for purpose given by any manufacturer of the Goods in respect of the Goods (or part thereof) to the extent that the same is capable of such transfer or assignment to the Customer or otherwise providing such benefit for the Customer.

8.3 Where there is any breach of the Supplier's warranty in Condition 6.1 or Condition 8.1 above or if any obligation, warranty or requirement imposed by, given or stated in the Contract in respect of the Goods or Services is not complied with, or the Goods or any instalment of the Goods are not delivered at the specified time or the Goods delivered are damaged the Customer shall be entitled at its sole discretion without liability to the Supplier (arising out of such action) and without prejudice to any other right or remedy the Customer may have to take one or more of the following actions to: (a) cancel the Contract and treat the Contract as having never been entered into by the Supplier; and/or (b) reject the relevant Goods (in whole or in part) and any Goods already delivered which cannot be effectively and commercially used by reason of the non delivery of any undelivered Goods; and/or (c) refuse to accept any subsequent delivery of the Goods; and/or (d) recover from the Supplier any costs reasonably incurred by the Customer in obtaining substitute goods or services from another supplier; and/or (e) require the Supplier at its sole cost to replace, repair the Goods or carry out such work as is necessary within 14 days so that the Goods conform to the Contract, Order and Specification; and/or (f) require the Supplier at its sole cost to re-execute the Services in accordance with the Contract, Order and Specification within a period to be determined by the Customer in its absolute discretion; and/or (g) treat this Contract as discharged by the Supplier's breach and: (i) delay payment of the price for the Goods and Services until the requirements of this Contract, Order and any Specification are entirely fulfilled, (ii) refuse to make payment of the price of the Goods or Services; or (iii) require the repayment of any part of the price of the Goods or Services which the Customer has paid whether or not the Customer has previously required the Supplier to repair the Goods, supply any replacement Goods or re-execute the Services; and/or (h) claim such damages as may have been incurred by the Customer as a result of the Supplier's breach of the Contract.

8.4 If the Customer claims that an Order has not been fulfilled or has been incorrectly fulfilled the Supplier shall be deemed to accept the validity of the claim unless it serves written notice on the

Customer disputing the said claim and stating the reasons for its dispute within 7 (seven) days of the date of the said claim.

8.5 If the Customer exercises any right under these Conditions the Customer may at its absolute discretion require the Supplier to collect the relevant Goods forthwith or return the Goods to the Supplier at the Supplier's cost. 8.6 The Customer's rights under these Conditions are in addition to any statutory remedies available to the Customer.

9 Product Recall

9.1 The Supplier shall immediately notify the Customer in writing providing all relevant details if it discovers that there is: (a) any defect in the Goods which have been delivered to the Customer at any time; or (b) any error or omission in the instructions for the use and/or assembly of the Goods; (whether or not any such defect, error or omission represents a breach of the warranty in Condition 8.1 or any other Condition) which causes or may cause any risk of death, injury or damage to property.

9.2 The Customer may at its discretion and at the Supplier's own cost: (a) recall any Goods or any other products into which the Goods have been incorporated already sold by the Customer to its customers (whether for a refund, credit or replacement which shall in each case be undertaken by the Supplier at the Customer's option); and/or (b) issue any notification whether in writing or otherwise to its customers about the manner of use or operation of any Goods or any other products into which the Goods have been incorporated already sold by the Customer to its customers; in each case on the basis of the identification whether by the Customer, its customers or any third party of any defect in the relevant Goods or any error or omission in the instructions for their use or assembly (whether or not that defect, error or omission represents a breach of the warranty in Condition 8.1 above or any other Condition) which the Customer reasonably concludes affects or may affect any of the Goods supplied which causes or may cause any risk of death, injury or damage to property.

10 Indemnity

10.1 The Supplier acknowledges that the Customer places particular reliance upon the provisions of these Conditions and in addition to any other remedy available to the Customer, the Supplier irrevocably and unconditionally agrees to indemnify the Customer in full and on demand and keep the Customer so indemnified from and against all claims, demands, actions, proceedings and all damages, losses, costs and expenses (including legal and other professional advisers' fees), all economic loss (including loss of profit (whether direct or indirect), loss of future revenue, reputation or goodwill and anticipated savings) which are made or brought against or incurred or suffered by the Customer, its officers, employees, representatives, agents or sub-contractors directly and indirectly and whether wholly or in part resulting from the matters listed below whether or not such losses or the consequences of the matters listed below were foreseeable at the date of the entering into these Conditions: (a) any claims that the Goods or Services infringe the Intellectual Property Rights of any third party by reason of the use, purchase or sale by the Customer of the Goods including any royalties being payable to any third party (save to the extent that the Goods or Services have been supplied in accordance with the Specification or designs of the Customer); (b) any breach of the Contract by the Supplier, its employees, agents or sub-contractors or any act or omission by any of them including any delays and any costs or liabilities incurred by the Customer in having to cancel any Order as a result of any such breach, act or omission or any other warranty or

condition concerning the Goods or Services whether express or implied by statute or otherwise; (c) any termination of the Contract pursuant to Condition 13.

10.2 The Supplier shall provide all facilities, assistance and advice required by the Customer or its insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Supplier's performance, or purported performance of, or failure to perform, the Contract.

11 Insurance

11.1 The Supplier shall at its own cost effect and keep in place with reputable insurers such insurance policies as are appropriate and adequate having regard to its obligations and liabilities under the Contract. The Supplier shall on the written request of the Customer from time to time provide the Customer with reasonable details of the insurance maintained in force in accordance with this Condition, and, on the renewal of each policy, the Supplier shall send a copy of the premium receipt to the Customer when requested to do so in writing by the Customer. The Supplier shall do nothing to invalidate any of the policies maintained in force in accordance with this Condition.

12 Confidentiality

12.1 The Supplier shall keep and procure to be kept secret and confidential all information disclosed or obtained as a result of the relationship of the parties under the Contract and shall not use nor disclose the same save for the purposes of the proper performance of the Contract or with the prior written consent of the Customer.

12.2 The Supplier shall not make any announcement or otherwise publicise the existence of or disclose to any person the provisions of the Contract without the prior written consent of the Customer.

13 Termination

13.1 The Customer may immediately terminate the Contract without payment of compensation or other damages caused to the Supplier solely by such termination by giving notice in writing to the Supplier if any one or more of the following events happens: (a) the Supplier commits a breach of any of its obligations under these Conditions which is incapable of remedy; (b) the Supplier fails to remedy, where it is capable of remedy, or persists in any breach of any of its obligations under these Conditions after having been required in writing to remedy or desist from such breach within a period of 30 days; (c) the Customer enters into bankruptcy, individual voluntary arrangement, liquidation, receivership, administration or into a corporate voluntary arrangement as defined by the Insolvency Act 1986.

13.2 The termination of the Contract shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of termination.

13.3 Upon termination of the Contract for any reason whatsoever: (a) (subject to Condition 0 above) the relationship of the parties shall cease save as (and to the extent) expressly provided for in this Condition 13.3; (b) any provision which expressly or by implication is intended to come into or remain in force on or after termination shall continue in full force and effect; (c) the Supplier shall immediately return to the Customer (or if the Customer so requests by notice in writing, destroy) all of the Customer's property in its possession at the date of termination including all confidential information, together with all copies of such confidential information and shall certify that it has done so, and shall make no further use of such confidential information.

14 Assignment, Sub-Contracting and The Contract and Third Party Rights

14.1 The Customer reserves the right to perform any of its obligations or exercise any of its rights under the Contract through any other group company provided that any act or omission of any such other company shall be deemed to be the act or omission of the Customer.

14.2 The Contract is personal to the Supplier. The Supplier shall not assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under the Contract without the prior written consent of the Customer.

14.3 The Customer may assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under the Contract at any time without the prior written consent of the Supplier.

14.4 The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Conditions. Save for any company in the same group of companies as the Customer, no person who is not a party to these Conditions (including any employee, officer, agent, representative or subcontractor of either party) shall have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of these Conditions which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties which agreement must refer to this Condition 14.4.

15 General

15.1 The Supplier shall not exercise any right of lien, general or otherwise and howsoever arising, over any Goods or any other property of the Customer in the Supplier's possession, in respect of any sums owed by the Customer to the Supplier under the Contract or otherwise.

15.2 No purported alteration or variation of these Conditions shall be effective unless it is in writing, refers specifically to the Contract and is signed by a duly authorised representative of each of the parties to the Contract.

15.3 The waiver by either party of any breach of these Conditions shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision. Any waiver of any breach of these Conditions shall be in writing.

15.4 If at any time any part of these Conditions is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from these Conditions and the validity and/or enforceability of the remaining provisions of these Conditions shall not in any way be affected or impaired as a result of that omission.

15.5 Any notice given under this Agreement shall be in writing and delivered by first class post or e-mail to the address of the party specified in this Agreement, or such other address as is notified to the other party from time to time.

15.6 The Contract sets out the entire agreement and understanding between the Customer and the Supplier in connection with the purchase of the Goods or provision of Services and shall supersede and replace all agreements and all documentation previously issued by the Supplier purporting to set out its terms and conditions of sale of the Goods.

16 Law and Jurisdiction

16.1 These Conditions and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England and all disputes or claims arising

out of or relating to these Conditions shall be subject to the exclusive jurisdiction of the English Courts to which the parties irrevocably submit.

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