



ES Global Ltd Unit G East, Coate House, 1-3 Coate Street, London E2 9AG

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Terms of Purchase

1 Interpretation

1.1 In these terms unless the context otherwise requires:

"Supplier" means person identified as such on this Order;

"Supplies" means goods whether raw materials, processed materials or fabricated products and/or services which Supplier is to supply in accordance with this Order;

The term "Order" shall mean any valid Purchase Order issued by ES GLOBAL. The Order is only valid when issued by an ES GLOBAL authorised representative.

"Terms" means the terms and conditions herein set out to which this Order is subject and any amendments thereto expressly agreed in writing between Supplier and ES GLOBAL.

1.2 Headings are for convenience only and shall not affect interpretation.

2 Basis of Order

2.1 Supplier agrees to sell or hire and ES GLOBAL to purchase or take on hire, as case may be, the Supplies subject to these Terms, which shall apply to exclusion of any other items and conditions and shall not be varied except in writing signed by ES GLOBAL and Supplier.

2.2 Supplier warrants it is skilled and knowledgeable in provision of the Supplies and acknowledges that ES GLOBAL relies on Supplier's skill and judgement and all recommendations or advice given by Supplier in negotiation of this Order concerning Supplies, their storage, fitness for purpose, functionality or use.

2.3 Any typographical or clerical error or omission in documents issued by ES GLOBAL shall be subject to correction without liability on the part of ES GLOBAL.

2.4 ES GLOBAL may cancel Supplies before scheduled delivery date without liability:

2.4.1 In the case of a purchase, on giving at least 15 days' notice or, subject to reimbursement of Supplier's reasonable costs incurred (such costs not to exceed price of Supplies), on less than 15 days' notice in which case materials (complete or incomplete) for which costs are paid; and

2.4.2 In the case of a hire, on giving at least three day's notice.

3 Orders and Specifications

3.1 Quantity and description of Supplies shall be as set out or referred to in this Order. The specification and quality of Supplies shall be in accordance with manufacturers and supplier's published specification as varied by this Order. Except for changes required to meet safety or statutory requirements not materially affecting performance or functionality, no variation in description or specification of Supplies shall be effected unless accepted in writing by ES GLOBAL.

3.2 ES GLOBAL has right, where appropriate with its client and on notice, to inspect at Supplier's facility relevant manufacturing and inspection processes and procedures relating to supplies and to reject Supplies that do not comply with the Order.

4 Price and Payment

4.1 ES GLOBAL shall pay price of Supplies (which shall be as set out in this Order and fixed) and any VAT thereon 45 days after the end of the calendar month following invoice. The invoice shall specify ES GLOBAL's Order number, description and quantity of Supplies and, if applicable, unit price. Proper VAT invoice, with Order number must be supplied. Invoices without Order numbers will be returned unpaid

4.2 ES GLOBAL shall be entitled to set-off amounts due to Supplier with amounts due by Supplier to ES GLOBAL.

5 Delivery

5.1 Supplier shall deliver Supplies to delivery address on date(s) and time(s), if any, specified in this Order or otherwise as directed by ES GLOBAL in writing.

5.2 Supplier shall furnish such programmes of manufacture and delivery as ES GLOBAL may reasonably require and Supplier shall give notice to ES GLOBAL as soon as practicable if such programmes are or are likely to be delayed.

5.3 Time for delivery, installation, testing, operation and removal of goods and for completion of services, as applicable, by Supplier shall be of the essence and (without prejudice to any other right or remedy including, but not limited to, direct and indirect loss claims) ES



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GLOBAL may, notwithstanding Clause 2.4, at its discretion and without liability to Supplier, cancel this Order in whole or part in event of late delivery or delay (other than caused by ES GLOBAL).

- 5.4 Supplier is responsible for packaging of Supplies to provide adequate protection against deterioration or physical damage during transit to delivery address and shall ensure Supplies are clearly labelled and addressed. All deliveries must be accompanied by a delivery note to confirm physical delivery not acceptance.
- 5.5 Claims by ES GLOBAL based on shortage or damage in transit will be notified to Supplier within reasonable time of discovery. ES GLOBAL reserves right, without prejudice to its other remedies, to accept or reject any Supplies which are found on or following delivery not to conform to the Order. Supplier shall bear additional costs incurred as a result of any such rejection or claim.

6 Risk and Title

- 6.1 Risk and title in supplies shall pass to ES GLOBAL on delivery except that:
 - 6.1.1 Any Supplies rejected by ES GLOBAL are returned to Supplier at Supplier's risk and expense; and
 - 6.1.2 Risk and title in goods supplied on hire remain with Supplier at all times unless ES GLOBAL shall have otherwise agreed in writing, in which case ES GLOBAL's liability for loss or damage of goods shall be limited to their condition immediately prior to such loss or damage or to reasonable cost of their repair, whichever is the lesser.
- 6.2 All materials provided by ES GLOBAL to Supplier in connection with Order (including all intellectual property rights of ES GLOBAL in such materials) remain property of ES GLOBAL and shall be returned to ES GLOBAL forthwith on request. Such materials shall be at risk of Supplier until return to ES GLOBAL and Supplier shall indemnify ES GLOBAL against any loss or damage thereto. Supplier shall upon request submit stock returns of such materials to ES GLOBAL.

7 Confidentiality

Drawings, specifications and other information supplied by ES GLOBAL may be proprietary or confidential to ES GLOBAL or its client and Supplier shall not at any time use or disclose the same other than for the purpose of this Order without ES GLOBAL's written consent.

8 Supplier's Warranties and Liability

- 8.1 Without prejudice to any warranty implied by law, Supplier warrants:
 - 8.1.1 Supplies will on delivery correspond to their specification and this Order;
 - 8.1.2 (except for defects in goods sold arising from fair wear and tear, abnormal working conditions, failure to follow specified maintenance schedules, misuse or alteration of Supplies without Supplier's approval) all goods will be of good quality, fit for their intended purpose, comply with all relevant national or international standards and be free from defects in design, material and workmanship for 12 months from date of delivery or first use;
 - 8.1.3 none of Supplies incorporates any computer system, chip or program or any other component with embedded date logic which does not comply with the Definition of Year 2000 Conformity Requirements published by the British Standards Institution. Neither the performance nor functionality of the Supplies will be adversely affected by reason of reference to any date prior to, during or after the year 2000; and the Supplies have been duly tested to confirm their compliance with those requirements;
 - 8.1.4 Supplies will, if applicable, comply with all legal requirements in any jurisdiction relating to any common currency ("Euro") adopted by more than one member of the European Union ("EU") (including rules on conversion and rounding in EC Regulation No. 1103/97)
 - 8.1.5 All services provided by Supplier will be carried out in a timely, safe and workmanlike manner with reasonable care and skill by persons of appropriate training and experience.
- 8.2 In the event of valid claim under Clauses 8.1 and without prejudice to any other right or remedy of ES GLOBAL:
 - 8.2.1 ES GLOBAL may, in case of Supplies purchased, return defective Supplies or part to Supplier who shall at its option diligently repair or replace the same and pay packing and return freight charges. Clause 8.1 shall apply in respect of repaired or replaced Supplies for any remainder of initial warranty period or, if longer, for three months from delivery to ES GLOBAL of such repaired or replaced Supplies; and
 - 8.2.2 In case of Supplies hired, supplier shall forthwith provide replacement for defective Supplies and bear full additional costs incurred by ES GLOBAL.
- 8.3 Supplier shall ensure Supplies comply with all relevant health & safety legislation and, except as notified to ES GLOBAL in writing, can be transported, stored processed and/or used without risk.
- 8.4 If claim is made against ES GLOBAL that Supplies contravene any relevant health & safety legislation or cause injury or damage to any person or property (other than negligent act of ES GLOBAL) or that their use or resale infringe any patent, copyright, design right, trade mark or other industrial or intellectual property right of any person, Supplier shall indemnify ES GLOBAL against all loss, damages, costs and expenses (on full indemnity basis) awarded against or incurred by ES GLOBAL in connection with such claim or any settlement thereof. Subject to such terms (including as to security for costs and damages) as ES GLOBAL may reasonably require, ES GLOBAL may offer Supplier full control of proceedings or negotiations relating to any such intellectual property claim.
- 8.5 Supplier warrants and represents that Supplier maintains adequate Public and Product Liability Insurance (providing cover of not less than £1,000,000 per claim).



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9 Termination

If: Supplier makes any voluntary arrangement with its creditors, has petition for administration order presented against it, (being an individual or firm) becomes bankrupt, (being a company) goes into liquidation (other than for purposes of amalgamation or reconstruction); encumbrance takes possession or receiver is appointed of any property or assets of Supplier; Supplier ceases or threatens to cease to carry on business; ES GLOBAL reasonably apprehends that any of the above is about to occur and so notifies Supplier; or Supplier in breach of notice by ES GLOBAL, then (without prejudice to any other right or remedy) ES GLOBAL may cancel or suspend Order in whole or part without liability to Supplier who shall be liable for additional costs incurred by ES GLOBAL in completing Order.

10 Force Majeure

ES GLOBAL shall not be liable to Supplier for delay or failure in performing ES GLOBAL's obligations due to any cause beyond ES GLOBAL's control (including without limitation, trade disputes or industrial actions, whether or not involving employees of ES GLOBAL) and in such circumstances ES GLOBAL reserves right to require Supplier to suspend deliveries or further performance.

11 General

- 11.1 Status of Supplier is independent contractor. If Supplier is more than one person, their obligations are joint and several
- 11.2 The obligations on part of Supplier under this Order shall not be assigned or sub-contracted by Supplier without ES GLOBAL's written consent. Copies of sub-orders shall be sent to ES GLOBAL by Supplier immediately it is issued.
- 11.3 Any notice shall be in writing to address of relevant party on Order or such other address as may be notified for the purpose.
- 11.4 No waiver of any breach of these Terms shall be a waiver of any subsequent breach of the same or any other provision.
- 11.5 If any provision of these Terms is invalid or unenforceable in whole or part, validity of the other provisions of these Terms and remainder of relevant provisions shall not be affected.

These Terms shall be governed by the laws of England and the parties submit to the non-exclusive jurisdiction of the English court