

Standard Terms and Conditions of Purchase

1. INTERPRETATION

1.1 Definitions. In these conditions, the following definitions apply:
Agreement: the Customer's Order for the supply of Goods and/or Services, accepted by the Supplier together with a) these terms and conditions, b) any Special conditions as referenced on the Order, c) any specification d) any other document expressly referenced on the Order.

Background IPR: any Intellectual Property Rights that are owned by or licensed to either party and which are or have been developed independently of this Agreement at any time.

Customer: TKMS ATLAS UK Limited registered in England and Wales with company number 5582639 and whose registered address is specified on the face of the Order.

Customer Materials: all documents, information, software and materials in any form (whether owned by the Customer or a third party), which are provided by the Customer to the Supplier in connection with this Agreement.

Data Protection Legislation: means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to: (1) UK GDPR; (2) Data Protection Act 2018; and (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy.

Delivery Location: the Customer's premises or such other location as is set out in the Order or as instructed by the Customer before delivery.

Entire Agreement: this Agreement and all documents referred to herein constitute the entire agreement and understanding between the Customer and the Supplier in respect of the subject matter of this Agreement and supersedes all previous agreements, understanding and undertakings in such respect. Nothing in this Agreement shall limit or exclude any liability for fraudulent misrepresentation.

Export License: means all relevant official approvals, licenses, authorizations and registrations including licenses for re-export.

Export Regulations: the set of laws, rules, and policies established by a country or international body that govern the export of goods, services, or technologies to foreign markets.

Foreground IPR: any Intellectual Property Rights generated in the Supplier's performance of this Agreement.

Goods: the goods (or any part of them) set out in the Order without limitation, materials, technical data, technology, software, hardware, system design documentation, prototypes or test results which are provided by the Supplier to the Customer pursuant to this Agreement.

Governing Law and Jurisdiction: The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-Contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales. The Customer's rights under this Agreement are in addition to its rights and remedies implied by statute and common law.

Intellectual Property Rights: any intellectual property rights of any nature anywhere in the world, whether registered, registrable or otherwise, including patents, utility models, design rights, applications for any of the foregoing, copyright, database and topography rights, confidential information and trade secrets and all similar rights and forms of protection to these or having equivalent effect now or in the future in any part of the world.

Order: the Purchase Order or any other agreed form of order method placed in writing by the Customer on the Supplier.

Supplier: the person or company from whom the Customer purchases the goods or services as specified in the order.

UK Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

UK GDPR: means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

2. BASIS OF AGREEMENT

2.1 Orders are only binding when in writing and signed by a duly authorised representative of the Customer.

2.2 All Orders placed by the Customer under these Conditions shall be deemed as accepted by the Supplier on the earlier of the Suppliers written acceptance or any act by the supplier consistent with fulfilling the order. These Conditions apply to the Agreement to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which conflict with the custom, practice or course of dealing.

2.3 Where special conditions are stated on the front of the Order, these conditions shall apply in addition to the Conditions shown herein save that where there are any inconsistencies between the special conditions and these Conditions the special conditions shall take precedence.

3. SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods shall:

- correspond with their description and any applicable Specification;
- be satisfactory quality in 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 the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgment;
- where applicable, be free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery; and
- comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods and retain relevant test certificates, conformity assessments and test construction files.

3.2 The Supplier shall ensure it has and maintains all the Insurances, licenses, permissions, authorisations, contents and permits that it needs to carry out its obligations under the Agreement in respect of the Goods.

4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

- The Goods are packed in accordance with any instructions set out in the Order or Goods Specification. If these details are not specified, the Supplier must ensure the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- each delivery of the Goods is accompanied by a delivery note which will reflect the details of the Order;
- each delivery includes any documentation required by the Agreement, including but not limited to, Certificates of Conformity, customs export documents, user manuals, Safety Data Sheets and if the Supplier is not the original manufacturer of the Goods, copies of the original manufacturers Certificates of Conformity.

4.2 The Supplier shall deliver the Goods:

- on or up to a maximum of three (3) UK Business Days before the date specified in the Order;
- Unless otherwise agreed in writing to the Delivery Location specified on the Order and DAP (Incoterms 2020) during normal business hours specified on the Order.

5. ACCEPTANCE OF GOODS

5.1 If the Supplier:

- delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
- delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods; or
- does not deliver the documentation required under Clause 4.1 or the goods are not of acceptable quality the Customer may reject the Goods;

5.2 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.

5.3 Any rejected goods will be returned at the Suppliers risk and expense.

5.4 Title and risk in the Goods shall pass to the Customer on completion of delivery. Such passing of property and risk shall be without prejudice to any right of rejection or cancellation arising under this Agreement.

6. CUSTOMER REMEDIES

6.1 If the Supplier fails to deliver the Goods by the applicable date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

- to terminate the Agreement with immediate effect by giving written notice to the Supplier;
- to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- to require a refund from the Supplier of sums paid in advance for Goods that the Supplier has not provided or Goods that it has not delivered; and

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

- to reject the Goods (in whole or in part) and to return them to the Supplier at the Supplier's own risk and expense;
- to terminate the Agreement with immediate effect by giving written notice to the Supplier;
- to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make.

7. CHARGES AND PAYMENT

7.1 The price for the Goods:

- shall be the price set out in the Purchase Order; and
- shall be inclusive of the costs of packaging, insurance, import fees and duties and carriage of the Goods, unless otherwise agreed in writing by the Customer.

7.2 All amounts payable by the Customer under the Agreement are exclusive of amounts in respect of valued added tax (VAT) chargeable from time to time.

7.3 If the Customer fails to pay any amount properly due and payable by it under the Agreement, the Supplier shall have the right to charge interest on the overdue amount at the rate of 4% per cent per annum above the base rate for the time being of the Bank of England accruing on a daily basis from 30 days after the payment first becomes due up to the date of actual payment, whether before or after judgment. This clause shall not apply to payments that the Customer makes in good faith.

7.4 The Customer may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier under the Agreement.

7.5 If any advance payments or instalments have been agreed in writing by the Customer, the customer shall make such payments in accordance with such agreed terms at which point Title to the Goods will transfer. The Supplier shall hold such payments or instalments on trust on behalf of the Customer until delivery and acceptance have been completed.

7.6 If any advance payments or instalments have been agreed in writing by the Customer, the customer shall make such payments in accordance with such agreed terms at which point Title to the Goods will transfer. The Supplier shall hold such payments or instalments on trust on behalf of the Customer until delivery and acceptance have been completed.

7.7 If any advance payments or instalments have been agreed in writing by the Customer, the customer shall make such payments in accordance with such agreed terms at which point Title to the Goods will transfer. The Supplier shall hold such payments or instalments on trust on behalf of the Customer until delivery and acceptance have been completed.

7.8 The Supplier warrants that it has full clear and unencumbered title to all Goods and all associated deliverables (or part thereof) and at the date of delivery to the Customer, it will have full and unrestricted rights to sell and transfer all such items to the Customer.

7.9 All Background IPR in the Goods shall be owned by the Supplier.

8.3 Any and all Foreground IPR arising out of or in connection with the Supplier's performance under this Agreement shall be owned by the Customer. The Supplier assigns such Foreground IPR to the Customer and, for the avoidance of doubt, all documents required to be delivered by the Supplier under this Agreement shall be marked as the sole property of the Customer.

8.4 The rights described in clause 8.3 shall be assigned on creation of the Foreground IPR with full title guarantee and free from all third-party rights. The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of it securing the full benefit of the Agreement, including all right, title and interest in and to the Foreground IPR assigned to the Customer in accordance with clause 8.3.

8.5 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Goods (excluding Customer Materials) for the purpose of receiving and using the Goods as intended.

8.6 The Supplier warrants that neither the sale nor the use of the Goods, any ancillary documents or services provided infringe any third-party Intellectual Property Rights and the Supplier shall indemnify and hold harmless the Customer in accordance with clause [9] for any breach of this warranty.

8.7 Notwithstanding any other term of this Agreement, the Parties agree that all Background Intellectual Property of either Party existing prior to the date of this Agreement shall remain vested in or controlled by such Party. The Supplier grants the Customer a non-exclusive, perpetual, world-wide, irrevocable and royalty-free licence (with the right to grant sub-licenses) to use the Supplier's Background Intellectual Property to the extent necessary to exploit the Intellectual Property Rights assigned by the Supplier to the Customer in accordance with this Agreement.

8.8 Except as otherwise expressly permitted in this Agreement, neither Party shall copy, reproduce, use, modify, customise, disassemble, adapt, reverse engineer, license or sell the other Party's Intellectual Property Rights.

9. INDEMNITY

9.1 The Supplier shall keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:

- Any claim made against the Customer by a third party for death, personal injury or damage to property arising out of or in connection with, defects in Goods, to the extent that the defects in the goods is attributable to the acts or omission of the Supplier, its employees, agents or sub-contractors;
- Any claim made against the Customer by a third party arising out of, or in connection with, the supply of Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Agreement by the Supplier, its employees, agents or sub-contractors; and
- Any claim made against the Customer for infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply, receipt or use of the goods.

9.2 This Clause 9 shall survive termination of the Agreement.

10. CONFIDENTIALITY

10.1 Each party undertakes:

- only to use, or allow to be used confidential information as may be necessary for the purposes of performing any of its obligations under this agreement and to treat and keep confidential information as confidential and shall not disclose the same to any third party any information (other than permitted under the agreement).
- To establish and maintain adequate security measures to safeguard the confidential information from any unauthorised use, reproduction, disclosure or access; and
- To notify the disclosing party as soon as practicable if it becomes aware of, or reasonably suspects, any loss or actual compromise of any confidential information; and
- Comply with any General Data Protection Legislation in the country or region operated in.

11. TERMINATION

11.1 Without limiting its other rights or remedies, the Customer may terminate the Agreement:

- with immediate effect by giving written notice to the Supplier if they commit a material or persistent breach of the Agreement or
- by giving the Supplier one (1) weeks written notice, without liability, at any time.

12. FORCE MAJEURE

12.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Agreement if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party. The affected party must serve notice to the other party as soon as reasonably possible including details of the event, its effect on performance, the expected duration and the actions undertaken to mitigate the impact.

13. HAZARDOUS SUBSTANCES

13.1 If the scope of the Agreement includes Hazardous Substances the Supplier shall provide with the order confirmation a completed safety data sheets and comply with all relevant UK and European regulations relating to the use of hazardous substances in electrical and electronic equipment and the disposal of electrical and electronic equipment, including without limitation, (EC) 1907/2006 REACH, the RoHS Directive 2011/65/EU and the WEEE Directive 2012/19/EU ("the Regulations").

13.2 The Supplier shall mark all hazardous goods with international danger symbols where they exist and clearly display the name of the material in English. Transport and other documents must include a declaration of the hazard, emergency information and name of the material in English.

14. OBSOLESCENCE

14.1 The Supplier shall have an obsolescence policy and procedure, and shall provide notification to the Customer no less than 12 months prior to the date the Goods are due to become obsolete. In addition, all the associated costs to maintain form, fit and function throughout the life of Goods shall be borne by the Supplier.

15. MANUFACTURING CHANGES

15.1 The Customer must be advised in writing in advance of any and all proposed changes in the specification of the Goods covered by this Agreement or a change in the method of construction of the Goods to be supplied.

16. QUALITY

16.1 The Supplier shall comply with any quality conditions notified with the Order, and any additional quality conditions as notified from time to time during the Agreement.

16.2 The Supplier shall maintain a document control and quality management system which is suitable in terms of type and scope and must keep records, in particular of its quality inspections, and make them available to the Customer upon request.

17. COUNTERFEIT GOODS

17.1 The Supplier should purchase goods direct from the original equipment manufacturer or authorised distributor and ensure that Goods are in line with the requirements and counterfeit goods are not delivered to the Customer

17.2 If the Supplier becomes aware of or suspects counterfeit goods have been acquired, then the Supplier shall notify the Customer as soon as reasonably practicable and support the Customer in any investigation that may result.

18. EXPORT REGULATIONS

18.1 The parties acknowledge that compliance with Export Regulations is an express condition of this Agreement. To achieve compliance with all Export Regulations the parties agree to make full disclosure at all times of all applicable Export Regulations, or other compliance obligations, which may affect the delivery or use of their products, information or the performance of their obligations under this Agreement.

18.2 The Customer agrees to provide an end user statement, where such is required to enable the Supplier to obtain the Export Licenses required to perform its obligations under this Agreement. In the event that the end user differs from that originally intended or described in the end user statement, the Customer will immediately notify the Supplier in writing and the parties shall use all reasonable endeavours to obtain a revised Export License.

18.3 The parties acknowledge that they will undertake at their own expense all necessary actions to obtain the Export Licenses and any other additional approvals required to perform their obligations under this Agreement.

18.4 The Supplier shall advise the Customer of the Country of Origin of those Goods, for each applicable item.

19. VARIATION

19.1 Any variation, including any additional terms and conditions, to the Agreement or any requested changes to the Order shall only be binding when agreed in writing and signed by the Customer.

20. COMPLIANCE

20.1 The Supplier shall:

- comply with all applicable laws, statutes, regulations, and codes applicable to the provision of the Goods (including any evolution thereof) and laws pertaining to compliance with the Order, including the same relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- promptly report to the Customer and request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with this Agreement;
- comply with the TKMS ATLAS UK Supplier code of conduct;
- comply with the Modern Slavery Act 2015 and have and maintain policy and procedures that ensure compliance.

e. Pass this obligation on to its sub-contractors and suppliers.

Breach of this Clause 19 shall be deemed a material breach of Agreement.

21. ASSIGNMENT AND SUB-CONTRACTING

21.1 The Supplier may not, without the prior written consent of the Customer, assign or transfer all or any of its rights and/or obligations under the Agreement, or Sub-Contract any of its obligations under the Agreement.

22. SUSTAINABLE PROCUREMENT

22.1 The Supplier shall comply with the economic, social and environmental legislation related to the subject matter or the execution of the Agreement by any servants, employees or agents of the Supplier and any sub-contractors engaged in the performance of the Agreement. If the Supplier becomes aware of any potential or actual prosecution or proceedings the Supplier shall immediately notify the Customer at the address specified in the Agreement.

22.2 Any convictions during the period of the Agreement for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Agreement shall be regarded as a material breach of this Agreement.

23. NET ZERO

23.1 The Customer is committed to reducing its Greenhouse Gas Emissions and making a positive contribution to climate change. The Parties acknowledge their common intention to minimise the impact of fulfilling their obligations under this Agreement on climate change, including minimising Greenhouse Gas Emissions.

24. PUBLICITY

24.1 The Supplier shall not, and shall not permit any person to, without the Customer prior written permission, publicise in any written media or public announcement information relating to this Agreement or Supplies provided or use "TKMS ATLAS" or derivatives of the company name as part of any publicly available material.

25. NOTICES

25.1 Any notice under or in respect of this agreement sent by one party to other shall be in writing on headed paper and delivered either by post or by email sent to procurement@uk.tkmsgroup.com. Notice is deemed to have been received, if sent by post on the second UK Business Day after posting or, if sent by email at the time of transmission.

26. GOVERNMENT QUALITY ASSURANCE (GQA)

26.1 All requirements of this Agreement may be subject to GQA. You will be notified of any GQA activity to be performed.