

## TERMS AND CONDITIONS OF BUSINESS

### 1. Interpretation

#### 1.1 In these Conditions:

“**Buyer**” means the person who within a period of 30 days accepts a quotation by the Seller for the supply of the Goods and/or provision of the Services or the person whose order for the Goods and/or the Services is accepted by the Seller.

“**Goods**” means the Goods which the Seller is to supply in accordance with these Conditions (including any instalment of such goods).

“**Services**” means the services which the Seller is to provide in accordance with these Conditions.

“**Seller**” means MPE Electronics Limited (registered in England and Wales with company number 1994847).

“**Conditions**” means the terms and conditions of business set out in this document as varied by any special terms and conditions agreed in writing between the Buyer and the Seller.

“**Contract**” means the contract for the sale of the Goods and/or the provision of the Services to which these Conditions relate.

“**Writing**” includes facsimile transmission, electronic mail, telex and comparable means of communication.

#### 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

#### 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2. Basis of the Sale of Goods and/or Provision of Services

2.1 The Seller shall sell or provide and the Buyer shall purchase the Goods and/or the Services in accordance with any quotation of the Seller which is accepted by the Buyer or in accordance with any order of the Buyer which is accepted in writing by the Seller in either case subject to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted by the Buyer or to which any such order is made or purported to be made by the Buyer.

2.2 No variation of these Conditions shall be binding unless agreed in writing between authorised representatives of the Buyer and the Seller.

2.3 Any contract for the supply by the Seller to the Buyer of Goods and/or Services following the supply of any Goods and/or Services by the Seller to the Buyer subject to these Conditions shall in the absence of written agreement to the contrary by the Seller be deemed to be subject to these Conditions.

2.4 No representations by any employees or agents of the Seller concerning the Goods and/or the Services shall bind the Seller unless confirmed in writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which have not been so confirmed.

2.5 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not given or confirmed in writing by the Seller shall be followed or acted upon by the Buyer entirely at the Buyer's own risk and the Seller shall not be liable for any such advice or recommendation which is not so given or confirmed.

2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3. Orders and Specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specifications) submitted by the Buyer and for giving the Seller any necessary information relating to the Goods and/or the Services in sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and any specification for the Goods and the nature of the Services shall be as set out in the Seller's quotation (if accepted by the Buyer) or in the Buyer's order (if accepted by the Seller in writing).

3.4 If the Goods are to be manufactured or assembled or any process is to be applied to the Goods by the Seller in accordance with a drawing, design or specification submitted by the Buyer, the Buyer shall indemnify the Seller against all losses, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's drawing, design or specification.

3.5 The Seller reserves the right to make any changes to the specification of the Goods and/or the Services which are required to conform with any applicable statutory or EC requirements or, where the Goods and/or the Services are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.6 Where which have been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all losses (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

### 4. Supply of Materials by Buyer

4.1 Where the Buyer is to supply the Seller with some or all of the materials required by the Seller to manufacture the Goods and/or provide the Services then the Buyer:

4.1.1 shall deliver or procure delivery of those materials to the Seller's premises immediately after the acceptance by the Buyer of any written quotation of the Seller or immediately after the acceptance by the Seller of any written order of the Buyer;

4.1.2 shall immediately replace any of those materials which prove faulty or unsuitable upon being notified of the fact by the Seller; and

4.1.3 warrants that it is the owner of those materials and that they will be of a quality and specification which will allow the Seller to manufacture the Goods and/or provide the Services in accordance with the Contract.

### 5. Price of the Goods and/or Services

5.1 The price of the Goods and/or Services shall be that set out in the Buyer's quotation. All quotations are valid for acceptance by the Buyer for 30 days only.

5.2 The Seller (notwithstanding any quotation) reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods and/or the Services to reflect any increase in the cost to the Seller of producing the Goods or providing the Services which is due to any factor outside the control of the Seller including but not limited to currency regulations, increase in duties, increase in the costs of labour or materials or other costs of manufacture, any change in delivery dates, quantities or specifications of the Goods and/or Services which is requested by the Buyer, any delay caused by any instructions of the Buyer or any failure of the Buyer to give the Seller adequate information or instructions.

5.3 Except as otherwise stated under the terms of any quotation or otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport and packaging.

5.4 All prices are exclusive of any applicable VAT or other taxes which the Buyer shall be additionally liable to pay to the Seller.

5.5 The cost of returnable containers will be charged to the Buyer in addition to the price of the Goods and/or the Services, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

### 6. Terms of Payment

6.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the Goods and/or the Services on or at any time after delivery (or if for any reason it shall not be possible to deliver the Goods at any time after attempted delivery of the Goods and/or the Services) and the Goods are to be collected by the Buyer and the Buyer fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection and irrespective of whether the Buyer has collected the Goods.

6.2 The Buyer shall pay the price of the Goods and/or the Services within 30 days of the date of the Seller's invoice. The time of payment of the price shall be of the essence of the Contract. A receipt for payment will be issued only upon request.

6.3 If the Buyer fails to make payment in full on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

6.3.1 cancel the Contract or suspend performance of the Services and/or suspend any further deliveries to the Buyer whether under the same Contract or a separate contract;

6.3.2 appropriate any payment made by the Buyer to such of the Goods and/or the Services (or goods and/or services supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer);

6.3.3 exercise a lien over any goods of the Buyer held by the Seller and any Goods incorporating materials supplied by the Buyer in accordance with Condition 4 above;

6.3.4 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above Midland Bank plc base rate from time to time calculated on a daily basis with quarterly rests until payment in full is made.

### 7. Delivery of Goods/Time for Provision of Services

7.1 Delivery of the Goods shall be made at the cost of the Buyer to the place specified in the Contract or, if no such place has been specified, by the Seller notifying the Buyer that the Goods are ready for collection at the Seller's premises.

7.2 Any dates quoted for delivery of the Goods and/or provision of the Services are deemed to be approximate only and the Seller shall not be liable for any delay in delivery of the Goods and/or the provision of the Services however caused. Time for delivery of the Goods and/or provision of the Services shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

7.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

7.4 Any liability of the Seller in respect of failure to deliver any of the Goods and/or to provide any of the Services for any reason shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods and/or of similar services to replace those not delivered or provided.

7.5 If the Buyer fails to take delivery of the Goods (otherwise than by reason of the Seller's fault) or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:

7.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

7.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

### 8. Testing

8.1 The Seller shall not be required to test the Goods prior to delivery unless so provided in the Seller's quotation which is accepted by the Buyer or in any order placed by the Buyer which is accepted in writing by the Seller.

### 9. Risk and Property

9.1 Where the Buyer has supplied materials to the Seller in accordance with Condition 4 above, risk of damage to or loss of those materials shall remain with the Buyer.

9.2 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery in accordance with Condition 7.1 above.

9.3 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods which are to be supplied to the Buyer and for the payment of the price of the Goods.

9.4 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but shall be entitled to re-sell or use the Goods in the ordinary course of its business the proceeds of any such resale being held on trust for the Seller.

9.5 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been re-sold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or of any third party where the Goods are stored and repossess the Goods.

9.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

### 10. Warranties and Liability

10.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and that any defects in workmanship which are notified to the Seller in writing within three months of delivery will be rectified at the Seller's expense.

10.2 The above warranty is given by the Seller subject to the following conditions:

10.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

10.2.2 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, use outside normal tolerance levels, failure to follow the Seller's written instructions, misuse or alteration or repair of the Goods without the Seller's approval;

10.2.3 The Seller shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price of the Goods and/or Services has not been paid by the due date for payment.

10.3 No warranty is given in relation to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of such warranty or guarantee (if any) as is given by the manufacturer to the Seller.

10.4 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law (including without limitation fitness for purpose).

10.5 If the Goods are sold and/or the Services are provided under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

10.6 Any claim by the Buyer shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 14 days from the date of delivery of the Goods or where any defect or failure would not have been apparent on reasonable inspection within a reasonable time after discovery of such defect or failure. If delivery of the Goods is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods or the Services, the Seller shall have no liability to the Buyer and the Buyer shall be bound to pay the price as if the Goods and/or the Services had been delivered in accordance with the Contract.

10.7 Where any value is added to the Goods and/or the Services is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace all or any part of the Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods and/or the Services (or a proportionate part of the price), and the Seller shall have no further liability to the Buyer (other than any liability in respect of death or personal injury caused by the Seller's negligence).

10.8 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent) or any implied warranty, condition or other term or any duty at common law or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees, sub-contractors, agents or otherwise) which arise out of or in connection with the supply of the Goods and/or the provision of the Services or the use or resale of the Goods by the Buyer.

10.9 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods and/or the Services if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:

10.9.1 act of God, explosion, flood, tempest, vandalism, fire or accident;

10.9.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

10.9.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

10.9.4 import or export regulations or embargoes;

10.9.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);

10.9.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

10.9.7 power failure or breakdown in machinery;

10.9.8 theft of materials or machinery.

### 11. Seller's Indemnity

11.1 If any claim is made against the Buyer that the Goods and/or provision of the Services infringe or that the use or resale of the Goods infringes on any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer or compliance with a request of the Buyer the Seller shall indemnify the Buyer against all losses suffered or damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

11.1.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim;

11.1.2 the Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;

11.1.3 except pursuant to a final award the Buyer shall not pay or accept any such claim or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);

11.1.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavour to do);

11.1.5 the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and

11.1.6 without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

### 12. Insolvency of Buyer

12.1 This Condition 12 applies if:

12.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual) becomes bankrupt or (being a firm or a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or (being a company) has an administrative receiver appointed; or

12.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

12.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

12.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

12.2 If this Condition 12 applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered and/or the Services provided but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### 13. Export Terms

13.1 In these Conditions “Incoterms” means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. 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, the latter shall prevail.

13.2 Where the Goods are supplied for export from the United Kingdom and/or the Services are to be provided to a party resident outside the United Kingdom, the provisions of this Condition 13 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provisions of these Conditions.

13.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

13.4 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered to the air or sea port of shipment and the Seller shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.

13.5 The Buyer shall be responsible for arranging the testing and inspection of the Goods before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection where inspection is only made after shipment, or in respect of any damage during transit.

13.6 Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Buyer in favour of the Seller and confirmed by a bank in United Kingdom acceptable to the Seller or, if the Seller has agreed in writing on or before acceptance of the Buyer's order to waive this requirement, by acceptance by the Buyer and delivery to the Seller of a bill of exchange drawn on the Buyer payable 60 days after sight to the order of the Seller at such branch of Midland Bank plc in England as may be specified in the bill of exchange.

### 14. General

14.1 The Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through sub-contractors, provided that any act or omission of any such sub-contractor shall be deemed to be the act or omission of the Seller.

14.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be given in writing either by hand delivery or by post or by fax addressed or sent by fax (as the case may be) to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

14.3 Any waiver by either party of any provision of these Conditions must be in writing and no such waiver shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

14.5 The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.