

PRIVATE & CONFIDENTIAL

# Sea-NC Engineering Limited

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General Terms & Conditions

## Sea-NC Engineering Ltd Terms & Conditions of Quotation & Sale

### 1. Definitions

- a. "Seller" means Sea-NC Engineering Limited, having its place of business at Unit 1d Southway, Southwell Business Park, Portland, Dorset DT5 2NJ
- b. "Purchaser" means the person, firm or company who purchases the Goods from the Seller
- c. "Contract" means the contract between the Seller and the Purchaser for the sale and purchase of the Goods in accordance with these Terms and Conditions
- d. "Goods" means jigs, tools, fixtures, parts, products, items, assemblies and any item or items described in any quotation and/or acceptance of any order or any part thereof
- e. "Terms and Conditions" means the terms and conditions set out in this document
- f. "Value Add Machining" means all the value add machining provided by the Seller and does not include any machining value add from its supply chain and excludes all other processes.
- g. "Statutory Interest" means statutory interest as defined in the Late Payment of Commercial Debts (Interest) Act

### 2. Terms & Conditions

- a. These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Purchaser seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### 3. Acceptance

- a. All quotations are subject to confirmation by the Seller on receipt of any order and the Seller reserves the right to refuse any order
- b. Quotations provided by the Seller will only remain valid for the period of time as indicated in the quotation after which the Seller reserves the rights to re-tender if requested by the Purchaser to proceed further.

### 4. Title

- a. Title to the Goods shall remain vested in the Seller and shall not pass to the Purchaser until all sums due to the Seller under the Contract have been paid in full.

### 5. Drawings & Specifications

- a. The Purchaser shall provide complete and accurate drawings and specifications recognised as complying with an appropriate standard including but not limited to ISO Standards.
- b. Where both 3D CAD models and drawings are provided, the Purchaser shall be responsible for confirming as to which is the governing document.
- c. In the absence of the Purchaser providing confirmation as to the governing document, the Seller shall in its discretion either (i) suspend manufacturing until confirmation is given, or (ii) itself decide which is the governing document and in either event, the Seller shall incur no liability to the Purchaser.
- d. The Purchaser shall be responsible for ensuring that the information provided is free of conflicting information or data.
- e. The Seller maintains the right to cease all progress and manufacturing of the Goods without liability should information provided by the Purchaser be conflicting, in error, incomplete or inadequate in any way to produce the Goods.
- f. The Purchaser shall be responsible for providing all of the specifications required in order to manufacture the Goods. The Seller shall not be charged for the provision of said specifications.
- g. The Purchaser shall be responsible for providing all of the information required for the manufacture of the Goods including but not limited to technical drawings and 3D CAD models in a complete and accurate state.

### 6. Quotation

- a. All quotations, indication of costs and financial commitments given or made by the Seller are based on the assumption of the validity of the information provided being fully accurate and correct in all circumstances. The Seller maintains the right at any stage to re-negotiate any contract, cost agreement or any other relevant commitment should any information provided by the Purchaser fail to be fully valid accurate and correct.

### 7. Failure to Disclose Information

- a. If any technical, commercial or other issue ("the Undisclosed Issue") arises during the course of the Contract of which the Purchaser was aware or should have been aware prior to entering into the Contract but did not disclose to the Seller, the provisions of this section 7 shall apply.

- b. The Seller shall be entitled to halt the development, manufacture or any other value add process until it has obtained sufficient information which in the sole discretion and judgment of the Seller enables the Seller to resume and the Seller shall incur no liability to the Purchaser in connection with the resulting delay or Goods manufactured where such incorrect information has been provided including:
  - i. concession costs
  - ii. scorecard quality and delivery implications or penalties
  - iii. late delivery penalties
- c. Furthermore, where the Seller is in substance replicating a process of the Purchaser any deviation of results from the process of the Purchaser will constitute a failure to supply complete and accurate information for the purposes of Clause 7b.
- d. The Seller maintains the right to re-negotiate the costs and other terms of the Contract to take account of the Undisclosed Issue or issues. If the Seller and the Purchaser cannot reach agreement in such re-negotiations, the Seller shall be entitled to terminate the Contract and the Purchaser shall be liable for all costs and expenses incurred by the Seller to the date of such termination.

#### 8. Terms of Payment

- a. Where credit is granted, unless otherwise agreed in writing, all sums payable in respect of the seller, must be paid in the full amount as indicated by the invoice no later than 30 days end of month from the date of the invoice.
- b. All payments to the Seller shall be made in GBP.
- c. If payment is not made in accordance with clause 8a, the seller reserves the right to charge Statutory Interest on the overdue balances for the period from the date of the invoice until the date of payment. In addition, each overdue invoice will attract an administration fee of £50 which will be paid by the Purchaser to the Seller.
- d. Failure to pay by the due date shall entitle the Seller to suspend delivery of all current and future orders.
- e. Where the Seller has good reason to believe the Purchaser may default on payment, the Seller reserves the right at any time and in its absolute discretion to demand immediate payment of any account and to take legal action to recover the debt and costs.
- f. The Seller reserves the right in its absolute discretion to refuse to grant credit.
- g. The Seller may, at any time, without limiting any other rights and remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by the Seller to the Purchaser.

#### 9. Taxes

- a. The Purchaser shall reimburse the Seller for all taxes, excise or other charges which the Seller may be required to pay to any government (national, state or local) upon the sale or transportation of the goods including Value Added Tax.

#### 10. Special Tools & Other Charges

- a. Any bespoke design and manufacture of any special tools, dies, jigs or fixtures required for production of the Goods will be invoiced to and be paid for by the Purchaser. The tool, die, jig or fixture shall, along with the intellectual property rights therein, remain, the property of the Seller.

#### 11. Quantity

- a. In any given contract or non-contract job, the Seller maintains the right to vary the costs if the Purchaser fails to place 90% of the promised orders within the agreed timescales.

#### 12. Modifications

- a. All modification change requests shall be lodged by the Purchaser in writing and in accordance with applicable ISO or AS standards.
- b. The Seller will not agree to incorporate or implement any modification on the basis of a "Change Proposal" provided by the Purchaser or any party acting on behalf of the Purchaser.
- c. The Seller will not agree to incorporate or implement any modification, drawing change, revision change or other change until the Purchaser has accepted the Seller's calculation of the costs and time for implementing such change.
- d. If any stock, WIP or raw material is affected by such modification or change then the Purchaser shall be liable for accepting the Goods in their current state.
- e. In addition, should such change affect the processing or production of this part, the Seller shall have the right to renegotiate the Contract to compensate the Seller for any increase in the cost of delivery of the Contract.

### 13. Delivery & Schedules

- a. If due to unforeseen circumstances the Purchaser requires the delivery time or times set out in the Contract to be altered, the Purchaser must provide notice in writing not less than four weeks prior to the said delivery time or times. The Seller will use its reasonable endeavours to meet the new delivery time or times requested by the Purchaser but reserves the right to charge the Purchaser for any increase in cost to the Seller incurred in meeting the new delivery time or times.
- b. Unless instructions to the contrary are stated on the order, transport arrangements will be made by the Seller on behalf of the Purchaser for despatch of the goods to the point of delivery indicated on the quotation. The Purchaser will be responsible for the whole costs of carriage and insurance in addition to the price of the Goods.
- c. If transport is arranged by the Seller, the risk in the Goods shall pass to the Purchaser at the time of the delivery at the said delivery point.
- d. If transport is arranged by the Purchaser, risk in the Goods shall pass to the Purchaser immediately after the Goods pass out of the control of the Seller, or its authorised agents.
- e. To ensure safety in transit, packing cases, lifting frames, coverings and/or other protective or packing equipment may be used and an additional charge for the said items will be applied to the Purchaser. In such instances where the Purchaser immediately returns said items to the Seller, carriage paid and in good condition, the Seller will only charge the Purchaser for the initial cost of said packaging and continue use of these items in the performance of the Contract until they are no longer fit for purpose, at which point the Seller shall charge the Purchaser for replacement items should further deliveries be required.
- f. The Seller does not accept any financial penalties for late deliveries.
- g. Where a Full Process Approval in accordance with any applicable regulations is required, the Seller will not accept any delivery schedule from the Purchaser and shall not be bound by any such delivery schedule issued by the Purchaser until such Full Process Approval has been confirmed by the Purchaser or a qualified party representing the Purchaser.

### 14. Changes & Cancellations

- a. Orders are not subject to change or cancellation by the Purchaser other than with the prior written consent of the Seller.
- b. In the event of cancellation or change to an order by the Purchaser, the Purchaser shall accept all completed Goods and all WIP Goods in process at full price. In addition the Purchaser shall reimburse the Seller for any loss on materials, tooling or other items purchased, for the purpose of fulfilling the order.
- c. Where the order is cancelled prematurely or the Purchaser shall fail to place orders in the quantities and in the time schedule for orders on which the Seller based the pricing in the Contract, the Seller shall remap the matrix pricing to reflect the actual quantity of Goods delivered to the Purchaser. The Purchaser shall thereafter pay to the Seller such sum as shall represent the difference between the aggregate original matrix pricing unit cost and the aggregate actual matrix pricing unit cost for all Goods delivered to the Purchaser.

### 15. Warranties

- a. The Seller does not warrant the suitability of the Goods for any particular purpose.
- b. The Seller warrants that the Goods shall conform to the drawings and specifications or descriptions furnished by the Purchaser and accepted by the Seller, will be of satisfactory quality and free from material defects in material and workmanship.

### 16. Issues Relating to conformity

- a. Any issues of conformity shall be lodged by the Purchaser in writing within 30 days of delivery of the Goods
- b. Should the Purchaser claim that the Goods do not comply with the warranty set out in Clause 15b, the Purchaser shall on the request of the Seller return the Goods to the Seller for inspection.
- c. The arrangement and payment of transport for Goods returned in terms of Clause 16b in the first instance shall be as agreed between the Purchaser and Seller. If the Goods are found not to comply with the warranty, the costs of transport shall be borne by the Seller. If the Goods are found to comply with the warranty, the costs of transport shall be borne by the Purchaser.
- d. Should the parties arrive at contradictory views as to the compliance of the Goods with the warranty set out in Clause 15b the Seller and the Purchaser shall meet at the Seller's premises within 10 days in order to reach a technical resolution or agreement. In the event of failure to reach agreement at such meeting, the provisions of Clause 20b shall apply.
- e. If the Goods do not comply with the warranty set out in Clause 15b, then the Seller at its option shall replace or modify the Goods, or refund the purchase price of the Goods. Except as provided in this Clause

16e the seller shall have no liability whatsoever to the Purchaser in respect of the Goods failure to comply with the warranty set out in Clause 15b.

- f. Any and all repair or modification of Goods under this Clause 16 will be undertaken and arranged by the Seller only. The Seller will only absorb the cost of such repair or modification if such repair or modification has been undertaken by the Seller or an appointed party on behalf of the Seller.

#### 17. Free Issue Material

- a. The Seller accepts no responsibility of any kind for any materials sent to the Seller by or on behalf of the Purchaser and risk in such materials shall remain with the Purchaser.
- b. The Seller furthermore does not warrant the suitability or fitness for purpose of materials so provided by the Purchaser

#### 18. Latent Defects Liability

- a. If during the course of manufacture or thereafter, castings, forgings or other raw material purchased from the Purchaser's preferred supply chain, on behalf of the Purchaser, fail for any reason not directly attributable to the Seller's manufacturing process then the Purchaser will be liable for all costs and expenses incurred by the Seller as a result of such failure.

#### 19. IP

- a. "Intellectual Property" or "IP" includes any and all inventions whether or not patentable, utility models, trademarks, component designs or manufacturing processes and any improvements or enhancements thereto, copyrights and moral rights, database rights, trade secrets and know-how, in each case whether registered or unregistered, and also including identified technical and non-technical or business-related information such as specifications, computer programs, drawings or blueprints.
- b. All background IP is and will remain the exclusive property of the party owning it. Neither party will be entitled to any right or license to any of the other party's background IP.
- c. For the avoidance of doubt, any machine programmes, tooling, fixturing, routing, method of manufacture and any associated data used to manufacture the goods remains the sole Intellectual Property of the Seller.

#### 20. Dispute Resolution

- a. The Seller and the Purchaser will use all reasonable endeavours to resolve any dispute which arises in connection with the performance of the Contract.
- b. If a dispute cannot be resolved at the operational level then:
  - i. Either party may give written notice to the other setting out the nature and particulars of the matter which is the subject of the dispute.
  - ii. Within 10 days after the notice is received by the addressed party, that party shall formally respond
  - iii. The notice and the response shall identify a senior manager of the party appointed by the party as a representative to conduct discussions and provide a thorough statement of that party's positions and full summary of reasons for supporting that position.
  - iv. Within 10 days of receiving that response, the senior managers from both parties shall meet in person at a mutually acceptable place to seek a resolution.
  - v. If no resolution is reached by the expiration of 30 days from the date of the notice of dispute either party may take such further steps as it considers appropriate to resolve the dispute, including the initiation of court proceedings or the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure.

#### 21. Termination

- a. Should the Purchaser seek to terminate the Contract the Purchaser will be liable for paying to the Seller the full amount of all claims as outlined in clause 14, the cost of settling any legally justified claims in connection with the necessary termination of sub contracts entered into in respect of the Contract or part thereof and any other associated cost or claim in respect of the cancelled order or contract.
- b. Either party has the right, without prejudice to its other rights and remedies, to terminate the Contract without liability, if the other party commits any material breach of any of its obligations under the Contract which it fails to rectify within 30 days of written notice of that breach (no notice period will apply for a breach of delivery terms) or makes a general arrangement with its creditors; or ceases or threatens to cease to carry on its business or a substantial part of it or is unable to pay its debts within the meaning of the applicable law as defined below; enters into liquidation whether compulsory or voluntary, except as a solvent company for the purposes of amalgamation or reconstruction; or has an administrator or

administrative receiver of the whole or part of its assets appointed or if any equivalent proceeding under any competent jurisdiction occurs.

**22. Force Majeure**

- a. Any delay or failure of either party to perform its obligations hereunder will be excused if, and to the extent that it is caused by an event or occurrence not reasonably foreseeable and beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, inability to obtain power, material, labour, equipment or transportation, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) will be given by the affected party to the other party as soon as possible but in any event not later than 5 days after the occurrence of such event.

**23. Export Control Laws**

- a. The parties acknowledge that any information provided or received may be subject to export control laws and regulations and each of the parties agree that they will strictly comply with all applicable requirements under such laws and regulations. As such, each party warrants and undertakes that it will not export or transfer by any means, electronic or otherwise, any information or goods without complying in all respects with the applicable export control legislation, codes of conduct, relevant export licence(s), guidelines, notices and instructions in relation to any export or transfer of information or goods.

**24. Governing Law & Jurisdiction**

- a. These Terms and Conditions are governed by and will be construed in accordance with, British Law. The British courts have jurisdiction to settle any dispute arising out of or in connection with the Contract or these Terms and Conditions and the legal relationships created by the Contract and these Terms and Conditions and each Party submits to the exclusive jurisdiction of the British courts with respect to such disputes.

**25. NOTICES:**

- a. All notices must be written in English and be delivered by hand or by registered or certified post and addressed to the party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause.
- b. Any notice will be deemed to be given as follows: (a) if delivered in person, at the time of delivery, or (b) if sent by commercial courier service or registered or certified post at the date and time of signature of delivery receipt provided that in each case where delivery occurs after 6.00pm on a business day at the recipient's location or at any time on a day which is not a business day, service will be deemed to occur at 9.00am on the next following business day.
- c. A notice required to be given under these Terms and Conditions shall not be validly given if sent by e-mail.
- d. Telephone calls may be recorded for training, quality, security and dispute purposes.