

# RADICON TRANSMISSION UK Limited

## Terms and Conditions of Purchase

### 1. DEFINITIONS

In these Conditions unless the context requires otherwise:

- 1.1 "Buyer" means Radicon Transmission UK Limited, or any subsidiary or associated company and their respective successors and assigns.
- 1.2 "Seller" means the person, firm or company to whom the Purchase Order is issued.
- 1.3 "Goods" means all goods covered by the Purchase Order and shall apply also to the supply of services if appropriate in the circumstances.
- 1.4 "Purchase Order" means the Buyer's purchase order to which these Conditions shall apply.
- 1.5 "Contract" means the contract between the Buyer and the Seller, consisting of the Purchase Order, these conditions and any other documents, or parts thereof, including drawings, which are specified in the Purchase Order.
- 1.6 "Contractor" means the Seller as defined in sub-Clause 1.2 when performing work on the Buyer's site.

### 2. SCOPE OF CONTRACT

- 2.1 The Seller shall supply and the Buyer shall accept and pay for the Goods in accordance with the terms of the Contract.
- 2.2 The Goods shall conform strictly with the agreed specifications and drawings (if any) and shall correspond with any sample by reference to which the Buyer has agreed to purchase the same.
- 2.3 No variation shall be made to the Contract save by written amendment to the Purchase Order, authorised by the Buyer.
- 2.4 These Conditions are an integral part of the Contract and any business will be conducted solely on the basis of these Conditions, to the exclusion of and notwithstanding any contrary terms, whether on quotations, acknowledgements, catalogues or any other correspondence from the Seller, including correspondence both pre- and post-dated from the placement of the Purchase Order.

### 3. QUALITY

- 3.1 In addition to any warranty or guarantee given by the Seller and without prejudice to any other terms and conditions implied in favour of the Buyer, the Seller warrants to the Buyer that all goods supplied shall be of the best of their respective kinds and of first class workmanship and subject to the Buyer's approval and conform to the relevant UK and EU laws and be fit for the purpose indicated or to be reasonably inferred and be so designed and manufactured as to be safe and without risk to health or property when properly used.
- 3.2 The Buyer's rights against the Seller under this Clause 3 shall not in any way be prejudiced if the Goods are not inspected until used.
- 3.3 The making of payment shall not in any way prejudice the Buyer's right to reject Goods which are not in conformity with the Contract.

### 4. QUANTITY

Quantities specified on the Purchase Order must be strictly adhered to. Any surplus arising should be referred to the Buyer for acceptance.

### 5. DELIVERY

- 5.1 Unless otherwise agreed in writing between the Buyer and the Seller, the time for delivery of the Goods and for the completion of any service be supplied under the Contract shall be of the essence of the Contract.
- 5.2 The Seller shall furnish such programmes of manufacture and delivery as the Buyer may reasonably require and the Seller shall give notice to the Buyer as soon as practicable if such programmes are, or are likely to be delayed.
- 5.3 Goods must be delivered at the delivery point specified in the Purchase Order. If Goods are incorrectly delivered, the Seller will be held responsible for any additional expense incurred in delivering them to their correct destination.
- 5.4 The Buyer shall not be liable to the Seller in any manner or be deemed to be in breach of the Contract because of any failure to take delivery of the Goods or any failure to pay for the Goods and/or any cancellation of the Contract as a result of any cause beyond its control such as, but not limited to, acts of God, governmental intervention restriction, import or export regulations, war, riots, strikes or trade disputes (including by and with the Buyer's own employees), accidents, power failure, inadequate performance or failure or incorrect processing by computer systems, fire, flood, default of suppliers or sub-contractors, or breakdown of plant, machinery or vehicles. In such cases the Buyer may require suspension of deliveries. Additionally the Buyer reserves the right to amend delivery dates or scheduled deliveries in accordance with changing requirements. The Buyer however shall not be liable for any loss or additional costs, whether direct or indirect, resulting from any suspension of or amendments to deliveries.
- 5.5 If, for any reason, the Buyer is unable to take delivery of the Goods on or after the due date for delivery the Seller shall, at its expense, store or arrange for storage of the Goods for a reasonable time and shall safeguard the Goods and take all reasonable steps to prevent their deterioration until their actual delivery.
- 5.6 Where practicable, the Seller shall ensure that the Purchase Order number is painted or marked as appropriate on all Goods.
- 5.7 The Seller shall send a detailed advice note to the Buyer at the same time as Goods are despatched, quoting the Purchase Order number, weight of the Goods, the number of pieces and any other details which the Buyer may specify. A duplicate advice note must be enclosed with the Goods.

### 6. PROPERTY AND RISK

Unless otherwise agreed in writing, the property and risk in the Goods shall pass to the Buyer on the earlier of payment for the Goods or delivery of the Goods at the point specified in the Purchase Order. If delivery of the Goods is postponed for any reason then property but not risk in the Goods shall pass to the Buyer at that date when, but for such postponement, the Goods would have been delivered.

### 7. PRICE

- 7.1 The price for the Goods shall be exclusive of Value Added Tax, but inclusive of all other charges unless otherwise specified in the Purchase Order.
- 7.2 The price for the Goods shall be fixed and firm and not subject to variation in any respect unless specific provision is made otherwise in the Purchase Order.

### 8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Seller warrants that it has the right to sell the Goods, that the Buyer shall at all times be entitled to use the Goods free from interference by the Seller or any third party and that the Goods are free from any charge, lien or other encumbrance.
- 8.2 In the event of any claim being made or action brought or threatened against the Buyer in respect of infringement of any intellectual property rights, including without limitation, any and all inventions, patents, utility models, design rights, copyright, know-how, trade secrets, confidential information, trade marks, service marks, trade names and goodwill, of a third party as a result of ownership or use of the Goods the Seller shall fully indemnify and keep the Buyer fully indemnified from and against all costs, expenses, loss or damage incurred by the Buyer in respect of any such claim being made or such action being brought except where the Goods are correctly manufactured to a design supplied by the Buyer and such claim or action is directly and exclusively referable to such design.

### 9. FREE ISSUE MATERIALS

- 9.1 Where the Buyer for the purposes of the Contract issues materials free of charge to the Seller, such materials shall be and remain the property of the Buyer and the Seller shall use such materials solely in connection with the Contract. The Seller shall maintain all such materials in good order and condition subject, in the case of tooling, patterns and the like, to fair wear and tear, and damage or waste of such materials shall be made good at the Seller's expense.
- 9.2 Without prejudice to any other rights of the Buyer, the Seller shall deliver up such materials, whether further processed or not, to the Buyer on demand. Failure to comply with any request to deliver up shall entitle the Buyer to enter the Seller's premises for the purposes of repossessing such materials.

### 10. REPAIR AND REPLACEMENT OF FAULTY GOODS

In addition to and not in substitution for any other rights and remedies which the Buyer may have for any breach of contract by the Seller, the Seller shall as soon as reasonably practicable repair or replace free of charge all Goods which, within the period of 12 months from the date on which they are put into service or 18 months from the date on which they are delivered to the Buyer (whichever is the shorter period) are found to be defective due to faulty design, faulty or inadequate materials or workmanship, the Seller's erroneous instructions as to use, erroneous use of data or any other breach by the Seller of its obligations under the Contract, whether express or implied. This sub-clause shall apply to the repaired or replacement Goods and shall continue to apply thereto for 12 months from the date on which the same are delivered (or as the case may be re-delivered) and reinstalled and have passed any tests to which the Buyer reasonably requires them to be subjected.

### 11. SUB-CONTRACTING

The Seller shall not be entitled to perform any of its obligations under the Contract by sub-contractors without prior written consent of the Buyer and, for the avoidance of doubt, the grant of such approval shall not relieve the Seller of any of its obligations under the Contract.

### 12. PROGRESS AND INSPECTION

- 12.1 The Buyer's representatives shall have the right to expedite delivery and inspect all Goods at the Seller's works and/or the works of sub-contractors at all reasonable times and to reject Goods which do not comply with the terms of the Contract and the Seller shall procure that all its sub-contracts include an equivalent provision to this sub-clause.
- 12.2 Any inspection, checking, approval or acceptance given on behalf of the Buyer shall not relieve the Seller of its sub-contractors from any obligations under the Contract.

### 13. SAFETY PRECAUTIONS

- 13.1 Where the Purchase Order calls for work to be performed on the Buyer's site, the Contractor must obtain a copy of the Buyer's rules applicable to working on site which, if not appended to the Purchase Order, should be obtained from the Buyer.
- 13.2 When on the Buyer's site the Contractor shall comply with the Health and Safety at Work Act 1974 and any re-enactment or modification thereof and all regulations and orders made thereunder shall fulfill all obligations imposed on manufacturers and suppliers as regards goods for use at work and shall ensure that each of its sub-contractors so complies.

### 14. INDEMNITY AND INSURANCE

- 14.1 The Contractor shall save harmless and indemnify the Buyer and all directors, employees and agents of the Buyer against all actions, proceedings, costs, claims and demands in respect of:
  - (a) accidental bodily injury (including death) sustained by any person (whether an employee of the Contractor or not) without limitation;
  - (b) accidental loss or damage caused to the property of any employee of the Contractor, without limitation;
  - (c) accidental loss of or damage caused to the property of any person other than an employee of the Contractor up to a limit in value of £1,000,000 (One Million Pounds) for loss of or damage caused to the property of any one person by any one accident or occurrence; by reason or in consequence of any work done by the Contractor or by any of its sub-contractors pursuant to the Contract.
- 14.2 The Contractor shall insure against its liabilities under sub-Clause 14.1 above with an insurer approved by the Buyer, and shall (if so requested by the Buyer) before commencing work under the Contract, submit the relevant policy, or a certificate signed by the insurer or Lloyds broker by or through which the insurance is effected confirming that the policy is in force and specifying its terms for inspection by the Buyer.
- 14.3 Without prejudice to the Buyer's rights under any condition, warranty or other term implied herein by statute or common law or under any term of the contract, the Seller shall be liable to the Buyer for and fully indemnify and keep the Buyer fully indemnified against all liabilities, claims, actions, demands, expenses, costs (on a full indemnity basis) proceedings, losses (including without limitation indirect loss) or damage suffered or incurred by the Buyer which:
  - (a) are caused by a breach of warranty given by the Seller to the Buyer in relation to the Goods;
  - (b) are caused by, relate to or arise from any defects in the Goods;
  - (c) are incurred by the Buyer under contracts entered into by the Buyer the performance of which has been delayed or rendered impossible by the Seller's breach of its obligations hereunder; or
  - (d) arise directly or indirectly out of any breach by the Seller of the Contract; and any sums expended by the Buyer so caused or arising shall be reimbursed to the Buyer by the Seller on demand.
- 14.4 Nothing in these Conditions shall exclude or limit the liability of the Buyer for death or personal injury caused by the Buyer's negligence or fraudulent misrepresentation.

### 15. SPECIFICATIONS, PLANS, DRAWINGS, PATTERNS ETC

- 15.1 Any specifications, plans, drawings, patterns or designs supplied by the Buyer to the Seller in connection with the Contract shall remain the property of the Buyer and any information derived therefrom or otherwise communicated to the Seller in connection with the Contract shall be regarded by the Seller as secret and confidential and shall not, without the written consent of the Buyer, be published or disclosed to any third party, or made use of by the Seller except for the purpose of implementing the Contract. The provisions of this clause 15.1 will not apply to information which is or becomes part of the public domain (other than through any breach of contract), or which comes lawfully into the possession of the Seller without any breach of confidentiality.
- 15.2 If, in connection with the supply of the Goods, any intellectual property rights (as described in sub-Clause 8.2) are created in the Goods or any plans, drawings, patterns, designs, materials, equipment, tools or technical data then the same shall vest in the Buyer and the Seller shall take all such steps as are necessary to vest the same in the Buyer.

### 16. TESTING

Whenever the Contract provides for testing of the Goods on completion of their installation (or otherwise as appropriate) the tests shall be carried out in the presence of the Buyer and the Seller shall give the Buyer reasonable notice of the date on which and the time at which the tests are to be made.

### 17. TERMINATION

Without prejudice to any of its other rights the Buyer may immediately terminate the Contract if any of the following occurs or is likely to occur:

- 17.1 the Seller is in breach of any of its obligations under the Contract which, if capable of remedy, the Seller has not remedied within 30 days of receiving written notice from the Buyer;
- 17.2 any distress or execution is levied or enforced or sued upon or against the Seller, its property or assets or any incumbrancer takes possession thereof;
- 17.3 the Seller (or, where the Seller is a firm, any partner therein) becomes insolvent or makes or offers to make any arrangement, compromise or composition with its creditors or ceases or threatens to cease to carry on the whole or a substantial part of its business; or
- 17.4 any petition in bankruptcy is presented against the Seller (or, where the Seller is a firm, against any partner therein); or
- 17.5 where the Seller is a limited company any resolution is passed or any petition is presented for the winding up thereof (otherwise than for the purpose of bona fide reconstruction or amalgamation and the resultant entity is or agrees to be bound by the Contract) or an administrator, administrative receiver, nominee, sequestrator, trustee, supervisor, receiver or liquidator is appointed of the whole or any part of its undertaking or assets or a manager or receiver is appointed under the Law of Property Act 1925.

### 18. REMEDIES

Without prejudice to any other right or remedy which the Buyer may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract the Buyer shall be entitled (whether or not any part of the Goods has been accepted by the Buyer) at its sole discretion to:

- 18.1 rescind the Contract;
- 18.2 reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller;
- 18.3 at the Seller's expense either (at the Buyer's sole discretion) give the Seller the opportunity to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- 18.4 refuse to accept any further deliveries of the Goods but without any liability to the Seller;
- 18.5 carry out (either itself or through third parties) at the Seller's expense any work necessary to make the Goods comply with the Contract; and;
- 18.6 claim such losses (including, but not limited to, indirect loss), costs, damages, charges and expenses incurred by the Buyer as a result of the Seller's breach of the Contract.

### 19. GENERAL

- 19.1 No failure on the part of the Buyer to insist upon the strict and immediate performance by the Seller of any of the terms and conditions of the Contract or to exercise promptly any of its rights and remedies against the Seller pursuant to the Contract shall constitute a waiver by the Buyer of any such term, condition, right or remedy.
- 19.2 The headings in these Conditions, being for convenience only, shall not affect the construction hereof.
- 19.3 No third party shall have any right of action in contract law pursuant to the Contract
- 19.4 The Contract shall be deemed to have been made in England and all matters relating directly or indirectly thereto or arising directly or indirectly therefrom shall be governed in all respects by the laws of England; and the parties submit to the exclusive jurisdiction of the English Courts save that the Buyer shall be entitled to seek injunctive or any other relief in the courts of any jurisdiction whatsoever.