

CRE PURCHASE ORDER TERMS AND CONDITIONS

1 INTERPRETATION

- 1.1 In these Conditions:
- "CRE"** is a trading name of C R Encapsulation Limited, a company incorporated in Scotland (registered number SC228211), and whose registered office is at Blackwood House, Union Grove Lane, Aberdeen, AB10 6XU;
- "Contract"** means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services.
- "Delivery Address"** means the delivery address stated on the Order;
- "Goods"** means the goods (including any instalment of the goods or any part of them) described in the Order;
- "Order"** means the CRE purchase order of which shall include these Conditions;
- "Price"** means the price of the Goods and/or the charge for the Services;
- "Seller"** means the person, firm or company so described in the Order;
- "Services"** means the services (if any) described in the Order;
- "Specification"** includes any drawings, technical information, data or other information relating to the Goods or Services.
- 1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or 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 PURCHASE

- 2.1 The Order constitutes an offer by CRE to purchase the Goods and/or acquire the Services subject to these Conditions.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to CRE or subject to which the Order is accepted or purported to be accepted by the Seller
- 2.3 The Order will be deemed to have been accepted by the Seller seven days after its date unless the Seller advises CRE otherwise in writing prior to that date. Delivery by the Seller shall of itself constitute an acceptance of the Order.
- 2.4 No variation to the Order or these Conditions shall be binding unless agreed in writing between the authorised representatives of CRE and the Seller.

3 SPECIFICATION

- 3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by CRE to the Seller or agreed in writing by CRE.
- 3.2 Any Specification supplied by CRE to the Seller, or specifically produced by the Seller for CRE, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of CRE. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
- 3.3 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, testing, packaging, packing and delivery of the Goods and the performance of the Services.
- 3.4 The Seller shall not unreasonably refuse any request by CRE to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide CRE with all facilities reasonably required for inspection and testing.
- 3.5 If as a result of inspection or testing CRE is not satisfied that the Goods will comply in all respects with the Contract, and CRE so informs the Seller within seven days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 3.6 The Goods shall be marked in accordance with CRE's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.
- 3.7 CRE shall be informed of all proposed changes in the specification or method of construction of Goods supplied before such changes are implemented. If CRE accepts the change, written approval will be sent to the Seller. CRE shall be entitled to cancel the Order in respect of all or part only of the Goods (including any Goods not so affected by such changes) by giving written notice to the Seller within 14 days of being so informed by the Seller. Component parts, or identical replacements, of any Goods supplied under the

Contract shall be available to CRE for a period of at least 5 years from the date of the Order, or that prior to these Goods and/or parts being made obsolete, at least 9 months written notice will be provided to CRE.

- 3.8 The Seller will ensure that Goods will comply with the requirements of the law and, to the extent that they contain toxic, corrosive or hazardous materials, the Seller will ensure that a notice to that effect will accompany each consignment, together with appropriate care and handling instructions.
- 3.9 Any Goods supplied under the Contract which are contaminated beyond use at the time of delivery shall be regenerated or disposed of by the Seller. Title and risk in the contaminated goods will transfer to the Seller at the time the contamination is identified and notified to the Seller, who will bear all expenses for the said processes, including the costs of returning such Goods to the Seller.
- 3.10 Only new and authentic materials are to be used in products delivered to CRE. No counterfeit or suspected counterfeit materials are to be contained within the delivered product. If suspect/counterfeit products are found in any of the goods delivered hereunder, such items will be impounded by CRE. Seller shall promptly replace suspect/counterfeit parts with parts acceptable to CRE and Seller shall be liable for all costs relating to the removal and replacement of said parts. CRE reserves all contractual rights and remedies to address grievances and detrimental impacts caused by suspect/counterfeit parts.

4 PRICE OF THE GOODS AND SERVICES

- 4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:
- 4.1.1 exclusive of any applicable value added tax (which shall be payable by the Company subject to receipt of a VAT invoice); and
- 4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposed or levies other than value added tax.
- 4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of CRE in writing.
- 4.3 CRE shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller.

5 TERMS OF PAYMENT

- 5.1 The Seller shall be entitled to invoice the Company on or at any time after delivery of the Goods or performance of the Services, as the case may be.
- 5.2 Each invoice shall quote the Order number, title and such other details as may be specified in the Order. Failure to do so may result in a delay in payment of the invoice. Each invoice shall be forwarded to the address specified in the Order.
- 5.3 Unless otherwise stated in the Order, CRE shall pay the Price of the Goods and the Services within sixty days of approval by CRE of a correctly prepared and adequately supported invoice or, if later, after acceptance of the Goods or Services in question by the CRE.
- 5.4 If a dispute arises in respect of the whole or any portion of an invoice, CRE shall inform the Seller of the disputed portion and the Seller shall, without delay, issue a credit note to CRE for the amount in dispute. The undisputed portion of such invoices shall not be paid until such credit note has been received by CRE. The issue of the credit note is without prejudice to the Seller's right to receive payment of the disputed portion or part thereof upon settlement of the dispute.
- 5.5 CRE shall be entitled to set off against the Price any sums owed to the Company by the Seller.

6 DELIVERY

- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during the CRE's normal business hours.
- 6.2 Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of Order, the Seller shall give the Company reasonable notice of the specified date.
- 6.3 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract, provided that the Seller shall not be liable for damages resulting from delays caused by circumstances outside its control, subject to the Seller having notified CRE promptly (and in any event no later than 48 hours) after becoming aware of such circumstances. In such cases where it is apparent that the delay may be prolonged, CRE shall have the option to terminate the Contract forthwith upon written notice without liability.
- 6.4 A delivery note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently.
- 6.5 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.

- 6.6 CRE shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until CRE has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
- 6.7 The Seller shall supply the CRE in good time with any instructions or other information required to enable the CRE to accept delivery of the Goods and performance of the Services.
- 6.8 Unless otherwise agreed in writing, CRE shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by CRE.
- 6.9 Goods delivered in error or in excess of the quantity required may at CRE's option be returned to the Seller, at the Seller's expense.
- 6.10 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, CRE shall be entitled to deduct from the Price or (if CRE has paid the Price) to claim from the Seller by way of liquidated damage for delay 2 per cent of the Price for every week's delay, up to a maximum of 10 per cent.

## 7 INSPECTION

- 7.1 The Seller shall ensure that all inspection and tests, including inspection of sub/contracts, shall be carried out as necessary and as required by the Specification. Before despatching the Goods the Seller shall carefully inspect and test for compliance with the requirements of the Contract.
- 7.2 The Seller shall inform CRE in writing 7 working days in advance of any final tests and/or inspection or any other tests that may be specified and permit at its premises or the premises of any sub-contractor, such progress and inspection surveillance as CRE considers necessary. The Seller shall provide safe and proper facilities for such access.
- 7.3 Any inspection, or failure to inspect, by the CRE shall in no way release the Seller of any responsibility or liability under the Contract nor be interpreted in any way so as to imply acceptance thereof by CRE.
- 7.4 Any additional work to be performed or action to be taken by the Seller resulting from any inspection or rejection of the Goods and/or Services shall not be regarded as a modification and shall be carried out at the Seller's own expense.

## 8 RISK AND PROPERTY

- 8.1 Risk of damage to or loss of the Goods shall pass to the CRE upon delivery to CRE in accordance with the Contract.
- 8.2 The property in the Goods shall pass to CRE upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to CRE once payment has been made and the Goods have been appropriated to the Contract.

## 9 WARRANTIES AND LIABILITY

- 9.1 The Seller warrants to CRE that the Goods:
  - 9.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller in writing at the time the Order is placed;
  - 9.1.2 will be free from defects in design, material and workmanship;
  - 9.1.3 will correspond with any relevant Specification or sample;
  - 9.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods; and
  - 9.1.5 comply with all current industry or other standards specified in the Order.
- 9.2 The Seller warrants to CRE that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for CRE to expect in all the circumstances.
- 9.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then CRE shall be entitled:
  - 9.3.1 to require the Seller to repair the Goods or rectify the Services or to supply replacement Goods or Services in accordance with the Contract within seven days; or
  - 9.3.2 at CRE's sole option, and whether or not the CRE has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.
- 9.4 The Seller shall indemnify CRE in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the CRE as a result of or in connection with:
  - 9.4.1 breach of any warranty (whether in the Conditions or otherwise) given by the Seller in relation to the Goods or the Services,
  - 9.4.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other industrial or intellectual property rights of any other person, except to the extent that

the claim arises from the use of any drawing, design or compliance with any Specification supplied by the CRE;

- 9.4.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;
- 9.4.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods; and
- 9.4.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services.
- 9.5 Neither the Seller nor CRE shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:
  - 9.5.1 Act of God, explosion, flood, tempest, fire or accident;
  - 9.5.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
  - 9.5.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
  - 9.5.4 import or export regulations or embargoes;
  - 9.5.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of either the Seller or CRE or of a third party).

## 10 INSURANCE

- 10.1 Without limitation of its liabilities and responsibilities under the Contract, the Seller shall at its own cost obtain and maintain in full force and effect throughout the duration of the Contract all insurances required by applicable legislation (in so far as applicable to the Goods or Services) in respect of public, employers' and motor vehicle liability, comprehensive general liability, products liability and professional indemnity in amounts, coverage and with companies satisfactory to CRE but in any event, such amounts and coverage shall not be less than commonly held standard in the appropriate industry, and upon request shall, within 14 days of the renewal date(s) thereof, provide the Company with evidence thereof.

## 11 TERMINATION

- 11.1 CRE shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller, at any time prior to delivery or performance; or
  - 11.1.1 in terms of Condition 3.7; in which event CRE's sole liability shall be to pay to the Seller the Price for the Goods or Services in respect of which CRE has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
- 11.2 CRE shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:
  - 11.2.1 the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
  - 11.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or
  - 11.2.3 the Seller ceases, or threatens to cease, to carry on business; or
  - 11.2.4 CRE reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

## 12 ASSIGNATION

- 12.1 The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

## 13 CONFIDENTIALITY

- 13.1 The Contract and any Order placed by CRE shall be treated as confidential and the Seller shall take all steps necessary to avoid the disclosure to third parties of any information contained therein or any information communicated to the Seller on a confidential basis by the CRE. This obligation will terminate only when such information has fallen legitimately into the public domain.
- 13.2 All designs, drawings, specifications and information which may be supplied in connection with the Order are confidential and shall be used only for the purposes of the Order.
- 13.3 Title and copyright in all designs and drawings of the Goods or in connection with the Services or any part thereof and in all specifications and information relating thereto provided to the Seller by CRE or prepared or made by the Seller, its employees, agents or sub-contractors for the express purpose of fulfilling the Contract shall vest in and belong to the CRE absolutely.

- 13.4 The Seller shall forthwith upon request at any time and without charge deliver to the CRE all designs, drawings, specifications and information relating to the Goods or Services then in the possession of the Seller or in the possession of any other person, firm or company who has possession of such documentation, through under or by direction of the Seller.

#### **14 ANTI CORRUPTION**

- 14.1 The Seller must comply with the CRE's Anti-Corruption Code at all times when dealing with the CRE and its employees. CRE's Anti-Corruption Code can be downloaded from our website [www.cre-marine.com](http://www.cre-marine.com).
- 14.2 CRE will select Sellers; based on anticipated annual spend, to enter into an Anti-Corruption Agreement with CRE in order that the Seller can remain on the Company's approved vendor database.

#### **15. CORPORATE SOCIAL RESPONSIBILITY**

- 15.1 CRE is committed to working in a socially responsible manner. Suppliers of goods and services must comply with all relevant legislation and international standards (including the UN Global Compact Principles and International Labour Organisation (ILO) Conventions and Recommendations) in particular relating to: trading policy, child and forced labour (slavery and human trafficking), health and safety of workers, non-discrimination, employment law, human rights and bribery and corruption.
- 15.2 CRE recognises the adverse impacts associated with the mining and trade of conflict minerals from the Democratic Republic of Congo (DRC) and adjoining countries and support the goal of the EICC Code of Conduct to mitigate hostilities and human rights abuses being largely perpetrated by armed groups who are funded by the trade of these conflict minerals.
- 15.3 CRE are working towards ensuring that our products do not contain conflict minerals that have been sourced from mines that support or fund conflict within DRC or adjoining countries. CRE expect its suppliers to conduct due diligence and implement policies and procedures such that they can provide on an annual basis all necessary information for CRE to allow us to make proper and accurate disclosures as and when required by our customers and government departments. To assist our supply chain CRE is utilising verification processes such as the EICC/GeSI Due Diligence Tool and Conflict Smelter Programme to confirm that the minerals in our chain are derived from responsible resources. CRE's Policy on Conflict Minerals can be downloaded from our website [www.cre-marine.com](http://www.cre-marine.com).

#### **16 GENERAL**

- 16.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed 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.
- 16.2 No waiver by CRE of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 16.3 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 thereby.
- 16.4 Any dispute arising under or in connection with the Contract shall be referred in the first instance to the respective managing directors of the CRE and the Seller who shall discuss the matter and make all reasonable efforts to reach an agreement. If no such agreement is reached the dispute shall be referred to such independent person nominated by agreement of the parties, who shall act as an expert, not an arbitrator, and whose costs shall be borne as such expert may direct. In the absence of any agreement being reached on a particular dispute either party may take appropriate action in the courts to resolve the breach at any time.

C R Encapsulation Limited – January 2019