

The Customer's attention is particularly drawn to the provisions of clause 12.

1. INTERPRETATION

1.1 In these Conditions, the following definitions apply:

Business Day;	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Company;	Yorkshire Laser & Fabrication Limited registered in England and Wales with company number 04974461.
Conditions;	these terms and conditions as amended from time to time in accordance with clause 15.7.
Contract;	the contract between the Company and the Customer for the supply of Goods and/or Services comprising these Conditions and the Order.
Customer;	the person or firm who purchases the Goods and/or Services from the Company, as detailed in the Order.
Force Majeure Event;	has the meaning given to it in clause 14.1.
Goods;	the goods (or any part of them) set out in the Order.
Intellectual Property Rights;	patents, rights to inventions, copyright, trade marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist now or in the future in any part of the world
Order;	the order for the supply of Goods and/or Services, which shall be based on the Company's quotation.
Services;	the services supplied by the Company to the Customer as set out in the Order.

1.2 In these Conditions a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be accepted when the Company issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.
- 2.4 Any samples, drawings, or descriptive matter issued by the Company and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Company's brochures or website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Company shall not constitute an offer. Any quotation is only valid for three months in respect of the Company's labour costs. The Company reserves the right to adjust its quotation at any time if the cost of materials increases.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in the Order. To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged

- infringement of a third party's Intellectual Property Rights arising out of or in connection with the Company's use of the such specification. This clause 3.1 shall survive termination of the Contract.
- 3.2 The Company reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.
- 3.3 Where the Customer requires the Company to supply Goods using free issue materials or the Customer supplies the materials to manufacture the Goods (the "Materials"), if, during the manufacturing process, the Materials are lost, damaged, deemed unfit for use, scrapped or the resultant Goods are not fit for purpose:
- 3.3.1 the Customer shall be notified by the Company as soon as reasonably practicable;
- 3.3.2 the Company shall not be responsible for any of the Customers costs, losses, damages or expenses incurred when acquiring the Materials or in connection with the replacement of ant such Materials;
- 3.3.3 the Company shall offer the labour to replace the Goods which were to be produced using the Materials if the Customer wishes to supply further Materials, but this shall be the extent of the Company's liability under this clause 3.3

4. DELIVERY OF GOODS

- 4.1 The Company shall ensure that:
- 4.1.1 each delivery of the Goods is accompanied by a delivery note; and
- 4.1.2 if the Company requires the Customer to return any packaging material to the Company, that this will be clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Company shall reasonably request. Returns of packaging materials shall be at the Company's expense.
- 4.2 The Company shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Company notifies the Customer that the Goods are ready. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide the Company with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.5 If the Customer fails to accept or take delivery of the Goods within 2 Business Days of the Company notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Company's failure to comply with its obligations under the Contract in respect of the Goods:
- 4.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the 3rd Business Day following the day on which the Company notified the Customer that the Goods were ready; and
- 4.5.2 the Company shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.6 If 10 Business Days after the Company notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Company may resell or otherwise dispose of part or all of the Goods.
- 4.7 The Customer shall not be entitled to reject the Goods if the Company delivers up to and including 5 per cent more or less than the quantity of Goods ordered.
- 4.8 The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.9 If the Goods are damaged or lost during transit the Customer shall give notify the Company by providing a detailed and complete claim in writing within seven (7) days of the date of delivery or the due date for delivery (as applicable). If the Company accepts the Customer's claim, the Company's shall replace the

Goods lost or damaged during transit free of charge and this shall be the extent of the Company's liability therefore.

5. QUALITY OF GOODS

- 5.1 The Company warrants that on delivery the Goods shall:
 - 5.1.1 conform in all material respects with their description;
 - 5.1.2 be free from material defects in design, material and workmanship; and
 - 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 Subject to clause 5.3, if:
 - 5.2.1 the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - 5.2.2 the Company is given a reasonable opportunity of examining such Goods; and
 - 5.2.3 the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost, the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 The Company shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
 - 5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
 - 5.3.2 the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - 5.3.3 the defect arises as a result of the Company following any drawing, design or specification supplied by the Customer;
 - 5.3.4 the Customer alters or repairs such Goods without the written consent of the Company;
 - 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - 5.3.6 the Goods differ from their description or any specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Except as provided in this clause 5, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Company under clause 5.2.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Customer until the Company receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Company has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Company's behalf from the date of delivery;
 - 6.3.4 notify the Company immediately if it becomes subject to any of the events listed in clause 13.3.2 to clause 13.3.4; and
 - 6.3.5 give the Company such information relating to the Goods as the Company may require from time to time.
- 6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer resells the Goods before that time:
 - 6.4.1 it does so as principal and not as the Company's agent; and
 - 6.4.2 title to the Goods shall pass from the Company to the Customer immediately before the time at which resale by the Customer occurs.

- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 13.3.2 to clause 13.3.4, then, without limiting any other right or remedy the Company may have:
- 6.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
 - 6.5.2 the Company may at any time:
 - 6.5.2.1 require the Customer to deliver up all Goods in its possession which have not been resold; and
 - 6.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. SUPPLY OF SERVICES

- 7.1 The Company shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.2 The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Customer in any such event.
- 7.3 The Company warrants to the Customer that the Services will be provided using reasonable care and skill.

8. CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:
- 8.1.1 ensure that the terms of the Order and (if submitted by the Customer) any specification for the Goods are complete and accurate;
 - 8.1.2 co-operate with the Company in all matters relating to the Services;
 - 8.1.3 provide the Company with such information and materials as the Company may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
 - 8.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
 - 8.1.5 where the Customer requires free issue materials or materials supplied by the Customer to be used in the Goods, the Customer shall ensure such materials are of good quality and not sub-standard, defective or faulty.
- 8.2 If the Company's performance of any of its obligations in respect of the Goods and/or Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- 8.2.1 the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services and all deliveries of the Goods until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
 - 8.2.2 the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 8.2; and
 - 8.2.3 the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.

9. CHARGES AND PAYMENT

- 9.1 The price for Goods and the charges for the Services shall be the set out in the Order. The price of the Goods unless specified otherwise in writing, is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 9.2 The Company reserves the right to:
- 9.2.1 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Company that is due to:
 - 9.2.1.1 any factor beyond the control of the Company (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

- 9.2.1.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the specification of the Goods; or
- 9.2.1.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Company adequate or accurate information or instructions in respect of the Goods.
- 9.3 The Company shall invoice the Customer on or at any time after completion of delivery.
- 9.4 The Customer shall pay each invoice submitted by the Company within 30 days of the date of invoice in full and in cleared funds to a bank account nominated in writing by the Company, and time for payment shall be of the essence of the Contract.
- 9.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). VAT shall be added to the Company's invoice at the prevailing rate.
- 9.6 If the Customer fails to make any payment due to the Company under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above National Westminster Bank PLC's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. The Customer may not withhold payment of any amount due under this Contract due to any disputed claim of the Customer in respect of faulty Goods or any other disputes arising in connection with this Contract.
- 9.8 The Company shall have the power to appropriate payment for Goods and Services as it thinks fit, notwithstanding any purported appropriation by the Customer to the contrary.

10. INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights in or arising out of or in connection with the Goods and Services shall be owned by the Company.

11. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11 shall survive termination of the Contract.

12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 12.1 Nothing in these Conditions shall limit or exclude the Company's liability for:
 - 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 12.1.2 fraud or fraudulent misrepresentation.
- 12.2 Subject to clause 12.1:
 - 12.2.1 the Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and
 - 12.2.2 the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the greater of £20,000 or the value of the Contract.
- 12.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4 This clause 12 shall survive termination of the Contract.

13. TERMINATION

- 13.1 No Contract may be cancelled or varied by the Customer without the express written consent of the Company. If the Company agrees to accept the Customer's cancellation or variation, the Customer shall indemnify the Company against any losses, costs, charges and expenses it incurs as a result of such cancellation or variation including (without limitation) loss of profit, costs of labour and materials.
- 13.2 The Company may terminate the Contract by giving the Customer not less than 4 weeks' written notice.
- 13.3 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.3.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice to do so;
 - 13.3.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; the other party makes a proposal for or enters into any compromise or arrangement with its creditors; a notice is given for or in connection with the winding up of the other party; the other party (being an individual) is the subject of a bankruptcy petition or order; a creditor or encumbrancer of the other party attaches or takes possession of the whole or any part of its assets and such attachment or process is not discharged within 14 days; an application is made to court for the appointment of an administrator or if a notice of intention to appoint an administrator is given; the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver; a person becomes entitled to appoint a receiver over the assets of the other party; any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.3.2;
 - 13.3.3 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
 - 13.3.4 the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.4 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 13.5 Without limiting its other rights or remedies, the Company may suspend the supply of Services and/or all further deliveries of Goods under the Contract or any other contract between the Customer and the Company if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.3.2 to clause 13.3.4, or the Company reasonably believes that the Customer is about to become subject to any of them.
- 13.6 On termination of the Contract for any reason:
- 13.6.1 the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 13.6.2 the Customer shall return any Goods which have not been fully paid for. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - 13.6.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - 13.6.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. FORCE MAJEURE

- 14.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule,

regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14.2 The Company shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

14.3 If the Force Majeure Event prevents the Company from providing any of the Services and/or Goods for more than 6 weeks, the Company shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

15. GENERAL

15.1 **Assignment and other dealings.** The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

15.2 Notices.

15.2.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at the address detailed in the Order or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier or fax.

15.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one Business Day after transmission.

15.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

15.3 **Severance.** If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 **Waiver.** No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy.

15.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties.

15.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Company.

15.8 **Governing law & Jurisdiction.** This 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 the law of England and Wales. Each party agrees that the courts in England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

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