

1. Definitions

In these terms and conditions the following expressions have the following meanings:

The Purchaser means Siemens plc or any of its subsidiary or associated companies;

Conditions means these terms and conditions for the purchase of Products and/or Services which are incorporated into and form part of the Purchase Order or scheduling agreement

Products means the products, goods or items which are the subject of the Contract and which may (without limitation) comprise or include Software;

Purchase Order means the purchase order together with the Conditions;

Scheduling agreement means the same as a blanket purchase order, however there is no binding contract to buy the whole quantity of parts stated on the scheduling agreement by the Purchaser. The agreed commitment at any one given time is parts in a period equal to the Lead Time plus a period of four (4) weeks as shown on the weekly schedule release by the Purchaser.

Seller means the person, firm or company referred to on the face of the Purchase Order and or Scheduling agreement with whom the Contract is made by the Purchaser;

Services means work and/or services which are the subject of the Contract and which may (without limitation) comprise, include or relate to Software;

Software means the software items which are comprised or included in or related to the Products and/or Services;

Contract means the contract between the Seller and Purchaser for the supply of the Products and/or Services comprising:-

(i) The Seller's offer (subject to the provisions of Clause 2) and acceptance thereof by the Purchaser by way of the Purchase Order or Scheduling agreement

(ii) the Purchase Order and (subject to the provisions of Clause 2) the Seller's acceptance thereof together with the Conditions and the documents (if any) incorporated by express reference on the face of the Purchase Order and the documents (if any) referred to in Clause 3.

2. Application

2.1 For the avoidance of doubt, the Conditions shall apply to and be incorporated into the Contract. Any offer by the Seller and/or acceptance of a Purchase Order/Scheduling agreement by the Seller shall be deemed to constitute an acceptance of and agreement to comply with the Conditions. The Conditions shall be in substitution for any other express or implied, written or oral terms, conditions, arrangements, customs or practices. All terms, conditions, arrangements, customs or practices as aforesaid conflicting with the Conditions are hereby excluded. In the case where there is a supply agreement, between the Purchaser and the Seller and there is a conflict between the terms in the Supply Agreement and these terms, the Supply Agreement shall prevail.

3. Quality and Description

3.1 All Products and Services supplied shall:

3 1 1 conform with the quantity, quality, description and any other particulars contained in the Contract;

3 1 2 conform with any sample, drawing, description and specification furnished;

3 1 3 be of satisfactory quality (as defined in the Sale of Goods Act 1979 as amended), fit for any intended use expressly or impliedly made known to the Seller and free from defect;

3 1 4 comply with all performance specifications in the Contract;

3 1 5 comply with the appropriate International Standard or equivalent best industry standard.

3.2 All Services supplied shall be in full accordance with the terms of the Contract and shall be executed in a proper and skilful manner by properly qualified and experienced personnel and conform to the best industry standards.

3.3 Testing. Inspection and acceptance by the Purchaser or end user under Clause 5 shall not be deemed a waiver of the Seller's obligations under this Clause 3.

3.4 This Clause 3 shall include and apply to any replacement, repaired, substituted or remedial Products or substituted or remedial Services provided by the Seller.

4. Statutory Obligations

4.1 The Seller shall comply with all relevant statutes, rules and regulations, by-laws and EEC directives affecting its obligations and the performance of the Contract.

4.2 While on Purchaser's Premises, the Seller shall abide by any written or verbal instructions in relation to safety and security issued by the Purchaser.

5. Inspection and Rejection

5.1 The Seller warrants that it has inspected and tested the Products for compliance with the Contract prior to delivery and

shall, if requested, supply the Purchaser with certificates of origin and/or testing. Such certificates must state the Purchaser's order numbers/Scheduling agreement number together with any item numbers.

5.2 If the Products and/or Services do not comply with the Contract the Purchaser shall within a reasonable time give notice of rejection to the Seller and without prejudice to any of its other rights the Purchaser may at its discretion require the Seller to comply with the Contract by expeditiously replacing or repairing as appropriate any rejected Products and replacing or otherwise righting any rejected Services. The rejected Products shall be returned to the Seller at its own risk and expense.

5.3 Any reference to Seller in this clause includes any Sub-Contractor of the Seller permitted under Clause 19.2. Where the Seller repairs or replaces Products or Services under these clauses, the Conditions shall apply to the repaired or replaced Products or Services.

5.4 The Purchaser reserves the right at reasonable times to inspect or test the Products or the Services at any stage before delivery and the Seller shall give rights of access to premises and such facilities as the Purchaser may reasonably require for such inspection.

6. Delivery and Risk

6.1 Products and Services shall be delivered on the dates and at the rates and at the places specified in the Contract and /or Purchase order/Scheduling Agreement. Delivery may be direct to the Purchaser's end user if so specified on the Purchase Order. The Purchaser acting reasonably may delay or alter such dates, rates and places upon giving the Seller reasonable notice in writing of such alterations. Delivery dates for scheduling agreements will be shown on the weekly scheduling releases sent by the Purchaser. 6.2 Time of delivery is of the essence of the Contract.

6.3 The Seller shall ensure that all Products are marked in accordance with the provisions of the Contract and Instructions of the Purchaser. Products shall be packed so as to reach the places of delivery undamaged and in good condition. The Seller shall provide in respect of each consignment of Products a packaging note detailing the Purchaser's order number, description, code number (if any) and the quantity of Products consigned.

6.4 If the Seller fails to deliver in accordance with the Contract, then the Purchaser may cancel the Contract or any part of it and reserves all rights in damages and otherwise arising including but not limited to the right to purchase substitute Products or Services elsewhere and to hold the Seller liable for any loss, expense or additional cost incurred.

6.5 Any Seller's property brought onto Purchaser's premises will be at and will remain at the risk of the Seller.

6.6 Purchase Orders/scheduling agreements which are generated electronically shall not require any signature. The Seller shall promptly acknowledge in writing each Purchase Order/Scheduling agreement.

6.7 The Seller shall be deemed late when the Seller fails to deliver the Product within the time period set-out by the Purchaser. In the event of the Seller being late, the Seller shall (without prejudice to the Purchaser's other rights and remedies) pay liquidated damages of 1% per complete week of the Price for the Products that have been delivered late up to a maximum of 10%.

7. Marked Products

7.1 Products marked with any mark used or owned by the Purchaser or its Customers shall not be disposed of to any third party without the prior written consent of the Purchaser.

8. Title

8.1 The Seller warrants that it has good title to the Products it is selling to the Purchaser. Title to Products shall pass to the Purchaser on delivery without prejudice to any right of rejection to which the Purchaser may be entitled under Clauses 5 and 6. The Seller acknowledges that the Products or Services may be sold on to an end user by the Purchaser and warrants that the Purchaser will be able to supply the end user with good title.

8.2 Clause 8.1 is without prejudice to Clause 11 in respect of any Software.

9. Prices

9.1 All prices shall be as stated in the Contract. The prices are fixed and include delivery and all other charges which shall not be adjusted.

9.2 Prices do not include VAT which shall be added by the Seller at the rate and in the manner from time to time prescribed by law.

9.3 Risk and title in the Products shall pass to the Purchaser unless specified otherwise by the contract.

10. Payment

10.1 The Seller shall send to the Purchaser a detailed invoice stating the Purchase Order/Scheduling Agreement and Products or Services reference number. Terms of payment are 60 days net unless otherwise agreed between the two parties.

10.2 Should the new European currency - the Euro - be introduced as legal tender in addition to or in lieu of the Pound Sterling in the United Kingdom, then the Purchaser may require invoicing (for each item to be invoiced) either in Pounds Sterling or in Euros, and in each case the official conversion rate shall be applied. The general validity of this Contract

shall not be affected by the introduction of the Euro as legal tender.

11. Software

11.1 If Products and/or Services include Software the Seller acknowledges that the Purchaser may be selling the same on to end users and warrants that it has good title to license the Software.

11.2 The Seller permits the Purchaser to market and resell the Software and any accompanying hardware either alone or as part of a package.

11.3 The Seller undertakes to supply the Purchaser with all updates of the Software and to allow it to copy them to those of its customers who hold an original copy version.

11.4 The Sellers shall provide the Purchaser with such technical advice, assistance, data and documentation, including source code where necessary, to enable the Purchaser to maintain the Software if it so wishes.

12. Confidentiality

12.1 The Contract and any other information supplied by the Purchaser is confidential. Use of information is permitted solely for the purpose of carrying out the Contract. The Seller shall not without the prior written consent of the Purchaser (such consent not to be unreasonably withheld) copy or disclose them to anyone other than those employees or agents of the Seller who need to know.

12.2 The Seller shall not without the Purchaser's written consent advertise or otherwise make known that the Seller supplies or has supplied Products or Services to the Purchaser.

13. Equipment and other Facilities

13.1 Issued Material shall be and remain the property of the Purchaser even if charged for. The Seller hereby undertakes to maintain Issued Material in good order and condition, to keep it separate from the Seller's property and to identify it as the property of the Purchaser. The Seller shall not use it except in respect of Contracts with the Purchaser. Risk in Issued Material shall be with the Seller who shall effect comprehensive insurance against all risks of its loss or damage of an amount equal to its replacement cost and with the Purchaser's interest noted on the policy and with the Purchaser as loss payees.

14. Warranty

14.1 The Seller warrants that:

- 14.1.1 the Products meet and fulfil the Specification;
- 14.1.2 the Products shall be free from defects in design, workmanship and materials for a period of 24 months from the date of transfer of title and risk in the Products to Siemens;
- 14.1.3 it will perform its obligations under this contract in accordance with Good Industry Practice (which shall for this purpose means the exercise of such reasonable skill and care, diligence, prudence, efficiency foresight and timeliness as would be expected from a Seller of products the same as or similar to the Products) and in compliance with all applicable laws;
- 14.1.4 all Products in breach of such warranty shall be repaired or replaced by the Seller within 2 weeks (or such other period of time the Parties may agree) of notification by the Purchaser of such breach, in default of which The Purchaser shall be entitled to repair or replace or procure the repair or replacement of such Products itself in which circumstances the Seller shall pay all costs and expenses incurred by The Purchaser in connection thereof;
- 14.1.5 in the event of Generic Failure, The Purchaser shall be entitled to treat the entire batch within which the relevant Products were supplied to The Purchaser as defective
- 14.1.6 the warranties in this Clause cover all parts, labour, materials, travel and any other costs and expenses in connection with such warranties. Up to a maximum amount for each failed product to be discussed.

14.2 Save as expressly provided for in this Agreement, all other warranties and conditions, whether express or implied by statute common-law are hereby excluded to the extent permitted by law.

15. Indemnity

15.1 The Seller shall fully indemnify the Purchaser against any claims, liabilities, actions, damages, costs or expenses resulting from death, injury, loss or damage to persons or property caused or contributed to by negligence of the Seller, its employees, sub-suppliers (if permitted) or agents.

15.2 The Seller shall indemnify and hold The Purchaser harmless against any claim of infringement of the intellectual property rights (including but not limited to patents existing at time of agreement execution, registered design, design right, trade mark or copyright) of any third party by the use or sale of the Products and against all costs, expenses, liabilities and damages which the Purchaser may incur in any action for such infringement or for which the Purchaser may become liable in any such action. This indemnity shall not however apply to any infringement, which is due to the Seller having followed a design furnished by the Purchaser, covering process or product, or manufacture, use or sale of any portion of the Products not manufactured by the Seller. In the event of a claim of infringement against the Purchaser, the Purchaser will give the Seller prompt notice in writing thereof and the Purchaser shall provide the Seller with all reasonable cooperation and assistance (provided that the Seller pays the Purchaser cost and expenses incurred in the provision of such assistance) and will permit the Seller, at the Seller's expense, to conduct any litigation that may ensue giving the Seller complete control of the defence and settlement of any claims.

15.3 The Seller accepts liability for all other loss or damage incurred by the Purchaser and which is attributable to negligence on the part of the Seller, its employees, sub-suppliers (if permitted) or agents or otherwise results from a breach of the Contract.

15.4 If Software is held to be infringing third party intellectual property rights then the Seller undertakes at its own expense to replace or amend the Software expeditiously so that it is no longer infringing.

16. Force Majeure

16.1 The Parties will not be liable to the other for any delay or failure to perform any obligation hereunder to the extent that such delay or failure is caused by circumstances beyond its reasonable control including without limitation acts of God, acts or omissions of any government or government agency, compliance with the requirements, rules, regulations or orders of any governmental authority, fire, storm, flood, earthquake, accident, acts of public enemy, war, rebellion, insurrection, riot, sabotage, invasion, quarantine, restriction, strike or transportation embargoes provided that a strike or work stoppage by the workforce of the Parties shall not constitute an event of force majeure.

17. Licences

17.1 If the Products or Services supplied under the Contract require the Purchaser to have any permit or licence from any governmental or other regulatory authority the Contract shall be deemed conditional upon such permit or licence being granted at the required time. The Seller warrants that it has all necessary permits and licences to allow it to sell the Products and Services to the Purchaser.

18. Termination

18.1 The Purchaser may cancel this Contract at any time by notice in writing. In which case the Purchaser shall notify by way of written notice equal to the Lead time plus four weeks, that it no longer requires Products. In the event of the Purchaser so notifying the Seller by written notice shorter than that specified, the Purchaser shall be responsible for that quantity of Products in a period equal to the Lead Time plus a period of four (4) weeks subject always to the Seller using its best endeavours to utilise, place, dispose of or sell such Products elsewhere. The Seller shall notify the Purchaser by written notice within 4 weeks of the original notification, unless otherwise agreed by both parties. After this period the Purchaser shall not accept responsibility for this obsolescence.

18.2 For the avoidance of doubt, any termination or cancellation of this Contract shall not affect the continuance in force of Software licences granted to the Purchaser or its customers.

19. Miscellaneous

19.1 All Intellectual Property in the work carried out under the Contract is hereby assigned to and shall vest in the Purchaser absolutely. This includes any copyright or design rights which will vest in and become the property of the Purchaser as and when such rights come into existence.

19.2 Without written consent from the Purchaser, the Seller must not sub-contract or assign the whole or any part of the Contract. If given Purchaser consents, the Seller is not relieved of any of its obligations under the Contract. The Purchaser may attach conditions to the giving of its consent.

19.3 If either party delays, forgets or chooses not to enforce their rights under the Contract it shall not affect their rights to do so at a later date.

19.4 The Contract is the entire agreement between the parties and may not be changed unless agreed in writing by properly authorised representatives of both parties.

19.5 All notices must be in writing and sent to the address or fax number set out in the Contract. They may be delivered by hand, or by first class post or by facsimile and shall be deemed to have been served:

if by hand, at time of delivery;

if by first class post, two working days after posting;

if by facsimile, on the date printed on the facsimile advice note produced by the sender's machine.

19.6 Headings do not affect interpretation.

19.7 The Contract shall be governed and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts.

20. Technical Modifications

The Seller shall modify, amend or otherwise vary the Specification only with the prior written consent of The Purchaser save in respect of modification, amendment or variation for health and safety reasons in which circumstances the Seller shall promptly notify the Purchaser in writing setting out in detail the modification, amendment or variation made and the relevant health and safety reasons.

The Purchaser shall notify the Seller of design changes in writing. In this case, the Purchaser shall only be liable for the quantity of product described in 18.1 , following the same provisions to place, dispose of or sell the Products elsewhere.

21. Environmental Protection

The Parties shall minimize environmental pollution to the extent that is technically possible and economically feasible and shall promote the use of quality-assured recycled materials in the production process. The Parties shall endeavour to avoid hazards as well as other negative influences deriving from the Products and possibly affecting the environment.

The Seller shall at the request of The Purchaser complete, sign and hand over to The Purchaser a prohibited substances form when requested in respect to the Products.

22. Assets

The Parties acknowledge that the Assets such as tooling paid for or paid by the Purchaser remain the property of The Purchaser and shall be used by the Seller solely in connection with the proper performance of its obligations under this contract. Upon request, the Seller shall provide the Purchaser all reasonable access and assistance to enable The Purchaser to remove and retrieve such assets.