

# MULTIMATIC PURCHASE ORDER TERMS AND CONDITIONS

Revision 1.0 (UK)

## GENERAL

The following provisions are applicable to all purchase orders issued by the Multimatic company or division identified as the Buyer on the face page of a purchase order ("Order") which expressly incorporates the Multimatic Purchase Order Terms and Conditions - Revision 1.0 (UK) by reference or which contains these terms and conditions on the back thereof. These terms and conditions will apply to all Orders issued to you as Seller. Orders issued by a Multimatic company or division will be valid without signature if issued by the Buyer by electronic means.

- 1. ACCEPTANCE:** Seller's commencement of (i) work on the goods subject to an Order ("Goods") or shipment of Goods, whichever occurs first, or (ii) performance of all or any portion of the services subject to an Order ("Services") shall constitute an acceptance of Buyer's offer to purchase contained in the Order upon Buyer becoming aware of such acceptance. Seller expressly acknowledges that unless otherwise agreed by Buyer in writing the supply of Goods or Services by Seller to Buyer shall be governed solely by the terms contained herein and on the face of the Order, and the Seller shall not seek to incorporate any other terms into any dealings between Buyer and Seller. Additional terms and conditions specified in Seller's quotation form, acknowledgement form, invoice or otherwise shall not apply to an Order. Buyer may cancel an Order at any time prior to Buyer's actual knowledge of acceptance by Seller.
- 2. OEM REQUIREMENTS:** Seller recognizes that Goods or Services purchased by Buyer under an Order will be incorporated into products or services being sold by Buyer to a third party ("OEM Customer") pursuant to a purchase order issued by the OEM Customer ("OEM Purchase Order"). Seller agrees to comply with any terms and conditions of an OEM Purchase Order which may affect Goods or Services Seller sells to Buyer. Buyer may, from time to time, supply Seller with information regarding OEM Purchase Orders but, in any event, Seller shall be responsible for ascertaining any terms and conditions contained in OEM Purchase Orders that may affect Seller's obligations hereunder. Without restricting the foregoing, Seller shall take such steps, provide such disclosures and do all things as may be necessary or desirable and within its control to enable Buyer to meet Buyer's obligations to OEM Customers under OEM Purchase Orders. If there is any conflict between this paragraph and any other provision of an Order, Buyer shall have the right to have the provisions of this paragraph prevail.

3. **LABELLING, PACKING AND SHIPMENT:** All Goods are to be suitably prepared for shipment and must be labelled, packed and shipped in accordance with Buyer's specifications. Seller shall not charge Buyer for labelling, packing, boxing or crating except as stated otherwise in an Order. Goods shipped in advance of releases or shipping dates specified in an Order or in excess of the quantity ordered shall be at Seller's risk and may be returned to Seller, and all transportation charges both to and from the original destination shall be paid by Seller. If Goods are not labelled, packed or shipped in accordance with Buyer's directions and/or the instructions set out in an Order, if any, then Seller shall pay or reimburse Buyer, as the case may be, for any excess cost occasioned thereby.
4. **DELIVERY:** Time is of the essence of an Order. Deliveries are to be made both in the quantities and at the times specified in an Order or, if not specified in an Order, in such quantities and at such times as may be indicated in Buyer's releases or other instructions. If the delivery date specified in an Order is marked "as scheduled", "as directed" or in some other like fashion, Buyer will issue from time to time releases or other shipping schedule authorizations specifying shipping dates, quantities and destinations. If Seller is unable to make shipments as specified in an Order, release, or schedule authorization, then Seller shall so notify Buyer immediately, but in any event before the specified date. Delivery of Goods shall be deemed to have taken place when the Goods are physically received by Buyer at their destination.
5. **EXCUSABLE DELAYS:** Neither Buyer nor Seller will be liable for a failure to perform that arises from causes or events beyond its reasonable control and without its fault or negligence, including labour disputes but not including financial difficulties. The party claiming the excusable delay shall give notice in writing as soon as possible after the occurrence of the cause relied on and after termination of the condition. If under the terms of an Order, Buyer has granted Seller exclusive rights to supply Goods or Services to Buyer, such rights shall not restrict Buyer from procuring Goods or Services from other suppliers for the duration of the excusable delay and for a reasonable period thereafter.
6. **TRANSPORTATION CHARGES, CUSTOMS DUTIES AND TAXES:**
  - (a) Except where the terms of delivery or conditions of transport are stated in an Order to be f.o.b. Seller's plant, all transportation charges (including terminal switching charges) shall be at Seller's expense. No charge shall be made for insurance, storage, parking or detention except as stated in the Order.

- (b) Unless otherwise stated in an Order, prices include customs duties and expenses and all federal, provincial, state and local taxes (including all import taxes, excise taxes, sales taxes and value added taxes) applicable to the sale of Goods or the provision of Services.
  - (c) Any reduction in Seller's costs resulting from a reduction in transportation charges, customs duties, import taxes, export taxes, sales taxes and/or value added taxes from those in effect at the date of an Order shall be paid to Buyer by Seller in reduction of the price of Goods and/or Services.
7. **CUSTOMS DRAWBACK DOCUMENTS:** Upon request, Seller shall furnish promptly all documents and other information required for customs drawback purposes, properly completed in accordance with applicable governmental regulations. Unless otherwise provided in an Order, all customs drawback shall be reserved and retained for, or credited to, Buyer.
8. **CERTIFICATES OF ORIGIN, ETC.:** Upon request, Seller shall furnish immediately to Buyer certificates of origin or domestic value added and all other information relating to the costs and places of origin of Goods or Services and the materials contained therein or used in the performance thereof, as may be required by Buyer to comply fully with all customs, tariff or other applicable governmental regulations. Seller shall comply with all such regulations. Seller shall indemnify Buyer, Buyer's Affiliates (as defined in this paragraph 8) and their respective customers against all losses, costs or damages (including any fines or penalties) resulting directly or indirectly from Seller's delay in furnishing such certificates or other information to Buyer and from any errors or omissions contained therein and from any non compliance by Seller with the aforesaid regulations. An "Affiliate" of a particular party means (i) an entity which is the parent or a subsidiary of the party and (ii) an entity which is directly or indirectly ultimately controlled by the same person or company who controls the party.
9. **PAYMENT:** Unless otherwise agreed by Buyer, net invoices shall be paid by the later of (i) 60 days after the date of the invoice or (ii) 60 days after the date of delivery of the Goods or Services. In the event of late payment by Buyer, Seller shall not be entitled to any lien, retention of title or set-off.
10. **SET-OFF:** In addition to any right of set-off provided by law, all amounts due or to become due to Seller from Buyer (including any applicable value added tax payable) shall be considered net of indebtedness of Seller to

Buyer and/or Buyer's Affiliates and Buyer may deduct or set-off any such indebtedness from any amounts due or to become due (including any applicable value added tax payable) to Seller from Buyer.

**11. CHANGES:**

- (a) Buyer reserves the right to make changes in the drawings, specifications and other provisions of an Order. If any such change causes an increase or decrease in the cost of, or the time required for, the provision of Goods or Services, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. No claim under this paragraph shall be asserted by Seller after 30 days following the notification of change by Buyer.
- (b) Seller shall give Buyer advance notice in writing of any changes to specifications, designs or part numbers (or other types of identification), as well as any major changes in processes or procedures or any changes in the location of the facilities used by Seller for providing Goods or Services.

**12. WARRANTIES:** All representations, statements or warranties made or given by Seller, its servants or agents (whether orally or in writing or in any of Seller's brochures, catalogues or advertisements) regarding the quality and fitness for purpose of the Goods or Services which are the subject of an Order shall be deemed to be express conditions of the Order. Seller expressly warrants that all Goods and Services, including without limitation, any special tools, dies, jigs, fixtures, patterns obtained at Buyer's expense for the performance of an Order and/or which are to be the property of Buyer, shall conform to all drawings, specifications, samples and other descriptions furnished, specified or adopted by Buyer, shall be of satisfactory quality, free from any defects in material and workmanship, and shall be free of all liens, claims, charges and encumbrances of any nature whatsoever. If Seller knows, or has reason to know, the particular purpose for which Buyer intends to use the Goods or Services, Seller warrants that such Goods or Services shall be fit and sufficient for such particular purpose.

**13. DEFECTIVE GOODS OR SERVICES:** If any Goods or Services fail to meet the warranties contained in paragraph 12, Seller, upon notice thereof from Buyer at any time, shall promptly repair, replace or otherwise satisfactorily deal with the same in an acceptable manner to Buyer, all at Seller's expense, and, without limiting Buyer's other rights or remedies hereunder or otherwise, Seller's warranty shall also apply to such

repaired, replaced or otherwise satisfactorily dealt with Goods or Services. If Seller fails to repair, replace or otherwise deal in a satisfactory manner with defects or non-conforming Goods or Services, Buyer may cancel the Order as to the particular Goods or Services and/or cancel the then remaining balance of any Order. After notice to Seller, all such defective or non-conforming Goods shall be held at Seller's risk. Buyer may, and at Seller's direction shall, return such Goods to Seller at Seller's risk and all transportation charges, both to and from the original destination shall be paid by Seller. Any payment for such defective or non-conforming Goods or Services shall be refunded by Seller, except to the extent that Seller promptly replaces or corrects same in accordance with this paragraph.

**14. NEW MATERIALS:** Unless expressly so stated on the face of an Order, none of the Goods are, in any way, governmental or commercial surplus or used, remanufactured, reconditioned or of such age or condition so as to impair fitness, usefulness or safety.

**15. QUALITY CONTROL AND INSPECTION:**

- (a) All materials and workmanship utilized in the performance of an Order shall be subject to inspection and testing by Buyer and its customers to the extent practicable at all times and places, including the period of manufacture. If any such inspection or testing is made on Seller's premises, Seller shall provide, without additional charge, all reasonable facilities and assistance. Seller shall be responsible for the health and safety of any of Buyer's employees who enter Seller's premises for the purpose of such inspection and testing under this sub-paragraph and sub-paragraph 15(b) below. Inspection and approval at Seller's premises does not preclude rejection or other relief for any defects subsequently discovered. Seller shall provide and maintain, without additional charge, a testing and inspection system (which shall include quality control and reliability procedures) acceptable to Buyer covering the materials and workmanship utilized in the performance of an Order.
- (b) At Buyer's option, Buyer may, from time to time, review and inspect Seller's testing, inspection, quality control and reliability procedures, as well as the data supporting same. Seller shall comply with the latest revisions of Buyer's Quality Control Specifications, Inspection Standards and Quality Assurance Manuals as may be supplied by Buyer to Seller from time to time. Seller shall, if requested by Buyer, furnish a certificate indicating such compliance. If Buyer is not reasonably satisfied that the

Goods or the quality of their manufacture comply in all material respects with the Order, then Seller, without extra cost to Buyer, shall take all steps necessary to ensure due compliance.

- (c) Acceptance of Goods or Services by Buyer shall not relieve Seller from any of its obligations and warranties under an Order. In no event shall payment be deemed to constitute acceptance by or on behalf of Buyer.

- 16. MATERIAL, EQUIPMENT, TOOLS AND FACILITIES:** Unless otherwise agreed in writing, Seller shall supply at its own expense all materials, equipment, tools, jigs, dyes, fixtures, patterns, drawings, specifications, samples and facilities required to perform an Order. All materials, equipment, tools, jigs, dyes, fixtures, patterns, drawings, specifications, samples and facilities, including any replacement thereof and any materials affixed or attached thereto, furnished to Seller or specifically paid for by Buyer or the OEM customer (collectively referred to herein as "Items") shall be and remain the property of, with the right of possession in, Buyer, and Seller shall use Items only in the performance of work for Buyer and not otherwise. All Items while in Seller's custody or control and while in the custody or control of Seller's suppliers, contractors or agents, shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense against loss or damage in an amount equal to the undepreciated cost of replacement and shall be subject to removal at Buyer's written request, in which event Seller shall, at Seller's expense, prepare the Items for shipment and shall deliver them to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Seller shall promptly notify Buyer of the location of Items, if Items are located at any place other than Seller's plant. Except as otherwise provided in an Order, Seller shall maintain accounting and property control records for Items in accordance with sound industrial practices. Seller shall, at its expense, maintain all Items in good condition and repair, replacing any Items if necessary. Buyer does not provide any warranties with respect to the Items which Buyer, directly or indirectly, furnishes. All Goods supplied and Services to be produced or provided in conjunction with an Order must be in strict accordance with the specifications set forth in the Order or as otherwise specified by Buyer to Seller. Upon completion or termination of an Order, all Items shall be retained by Seller at its expense until disposition directions are received from Buyer. Buyer shall, at such time as is specified in an Order or as otherwise stipulated by Buyer, acquire title to and the right to possession of special tooling, the cost of which is fully or substantially amortized in the price of Goods or Services. If Buyer or Seller defaults under an Order, Seller shall immediately upon demand deliver all Items and special

tooling to Buyer and, if Buyer so requests, grant Buyer access to Seller's premises for the purpose of removing Items and special tooling.

**17. PATENT AND OTHER INDEMNITY:**

- (a) Seller shall hold and save Buyer, Buyer's Affiliates (as defined in paragraph 8) and their respective customers harmless from all loss and/or liability of any nature or kind, including damages, court costs and legal fees, arising or existing because of the infringement or alleged infringement of any patent, trade mark, copyright, industrial design or process of manufacture or on account of the manufacture, sale or use of any Goods or Services, or products incorporating Goods or Services, except where strict compliance by Seller with specifications prescribed by and originating with Buyer constitutes a sole basis of the infringement or alleged infringement. Buyer shall notify Seller, in writing, of any suit filed against Buyer or Buyer's Affiliates or their respective customers on account of any such infringement, and, at Seller's request, shall give Seller control of the defence of such suit, insofar as Buyer has authority to do so, and reasonable information and assistance in connection therewith, all at Seller's expense. Buyer and the party against whom suit is brought shall have the right to be represented by their own legal representatives and actively participate in any such suit and the reasonable costs of such representation shall be paid by Seller on demand.
- (b) Seller hereby grants to Buyer and Buyer's Affiliates and their respective customers, a non-exclusive, royalty free, paid up, irrevocable, world wide licence (i) to use the Goods and Services and all patents, industrial designs and processes of manufacture relating to Goods and Services, including, without limitation, having the right to make, repair, rebuild, relocate and sell and to have made, repaired, rebuilt, relocated and sold Goods; and (ii) to use any copyright works of authorship fixed in any intangible medium of expression (including, without limitation, drawings, prints, manuals and specifications) furnished by Seller to any such party in the course of Seller's activity hereunder or under an Order, including, without limitation, to reproduce, distribute and display any such works and to prepare derivative works based thereon, subject to other provisions hereof.

**18. CONFIDENTIALITY:** Seller shall consider and treat all Information (as defined below in this paragraph) as confidential, shall treat such Information in the same manner as it treats its own proprietary

information and shall not disclose any Information to any other person, or use any Information itself for any purpose other than pursuant to and as required by an Order, unless Seller obtains the prior written consent of Buyer to do so. Buyer retains all rights with respect to Information, and Seller shall not allow any Information to be reproduced or in any way used, in whole or in part, in connection with services or goods furnished to others without Buyer's specific prior written permission. The term "Information" includes, without limitation, all drawings, reproductions, specifications, designs, engineering instructions, photographs, reproducible copy, parts list, plans, reports, working papers, computations and other information (including, without limitation, all Items as defined in paragraph 16) furnished by Buyer. Seller shall not advertise or otherwise discuss the fact that Buyer has contracted to purchase Goods or Services from Seller, nor shall any Information relating to an Order or to Goods or Services be disclosed without, in each case, Buyer's written permission.

**19. COMPLIANCE WITH LAWS:**

- (a) Seller warrants compliance with all federal, provincial, state and local laws, ordinances, rules and regulations, and all amendments thereto, that are applicable to an Order and shall furnish Buyer with certificates of such compliance where required thereunder or where requested by Buyer. It is also agreed that each invoice rendered to Buyer under an Order shall constitute written assurance by Seller that Seller has fully complied with all applicable laws, ordinances, rules and regulations.
- (b) Seller shall package and label Goods and their containers, in particular those which constitute a health, poison, fire, explosion or other safety hazard, in accordance with all applicable federal, provincial, state and local packaging and labelling laws, ordinances, rules and regulations, and all amendments thereto, in effect in the place to which Goods are shipped or as otherwise specified by Buyer.

**20. INDEMNIFICATION AND INSURANCE:**

- (a) Seller shall, if Seller's representatives, employees or agents enter upon the premises owned or controlled by Buyer or its Affiliates (as defined in paragraph 8) in the performance of Seller's obligations hereunder or under an Order (i) indemnify and save harmless Buyer, Buyer's representatives, employees, agents and invitees, from and against all liabilities, demands, claims, losses, costs,

damages and expenses by reason or on account of property damage, death and/or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with the performance of an Order, which is occasioned by Seller's actions or omissions; and (ii) ensure that it is in compliance with all requirements of the workers' compensation legislation, if any, of the jurisdiction in which Buyer's premises are located. Seller agrees that all of its efforts in the performance of an Order shall be made as an independent contractor and that the persons engaged in such performance shall not be considered employees of Buyer. It shall be the responsibility of Seller (where necessary) in effecting the supply of Goods and Services to familiarize itself with the location and lay-out of Buyer's premises and Seller shall be liable under these terms and conditions for any delay in supply caused by its failure to so familiarize itself.

- (b) Seller shall maintain and carry general liability insurance including, but not limited to, public liability, property damage liability, product liability and contractual liability coverages, and workers' compensation and employees' liability insurance covering all employees engaged in the performance of an Order, in amounts satisfactory to and with companies approved by Buyer. Seller shall furnish certificates or other satisfactory proof of insurance confirming the foregoing coverage prior to commencing work under an Order. The receipt or review of such certificates or other proof of insurance cover by Buyer shall not relieve Seller from its insurance obligations hereunder or reduce or modify such insurance obligations.
- (c) Seller agrees to defend, protect and hold harmless Buyer, Buyer's Affiliates and their respective successors, assigns, agents and customers against any and all claims for personal injury, property, consequential or special damages resulting from improper, unsafe or defective material, workmanship or design of Goods or Services or Seller's failure to comply with paragraph 19.
- (d) In no case shall Buyer indemnify or hold harmless Seller against claims for personal injury, property, consequential or special damages resulting from improper, unsafe or defective material, workmanship or design of Goods or Services.

## 21. TERMINATION UPON NOTICE:

- (a) Buyer may terminate an Order in whole or in part at any time by written notice (including notice by facsimile or other similar means of electronic transmission) stating the extent and effective date of such termination. Upon receipt thereof, Seller shall, to the extent directed by Buyer:
  - (i) stop work under any Order relating to work terminated by such notice;
  - (ii) protect all property in Seller's possession or control in which Buyer has or may acquire an interest; and
  - (iii) cease to be bound to deliver and Buyer shall cease to be bound to receive delivery of any further Goods or Services.

Seller shall submit to Buyer any claims relating to such termination as soon as possible, but in any event within thirty (30) days (unless Buyer agrees otherwise) from the effective date of such termination. Seller hereby grants Buyer the right to audit and inspect its books, records and other documents relating to its termination claims.

- (c) If the parties cannot agree within a reasonable time upon the amount of fair compensation for termination by Buyer, Buyer shall, in addition to making prompt payment of the contract price for Goods and Services delivered or performed and accepted by Buyer prior to the effective date of termination, pay to Seller the following amounts, without duplication,:
  - (i) the contract price for Services performed or Goods completed in accordance with the terms of a relevant Order but not previously paid for; and
  - (ii) the actual costs (other than capital costs) incurred by Seller and properly allocated or apportioned under recognised commercial accounting practices to the termination portion of the relevant Order.
- (d) Seller may, with Buyer's consent, retain at an agreed price or sell at an approved price any completed Services, Goods, work in process or other physical inventory, the cost of which is allocated or apportionable to an Order under clause 21(c)(ii) above, and shall credit or pay the amounts so agreed or received as Buyer directs,

with appropriate adjustment for any delivery costs savings. Seller shall, if directed by Buyer, transfer title to and make delivery of any Goods, work in process or other physical inventory not so retained or sold.

22. **TERMINATION UPON DEFAULT:** Buyer reserves the right to terminate an Order in whole or in part for default occasioned by Seller's failure to perform in accordance with the requirements of the Order or for Seller's breach of any of the terms or conditions hereof or of an Order. Such termination shall be without liability to Buyer, except for completed Goods delivered to or Services performed for, and accepted by, Buyer. Seller shall be liable for damages caused by or resulting from its default.
23. **TERMINATION UPON INSOLVENCY OR BANKRUPTCY:** Either party may cancel an Order without liability in the event of the insolvency (as defined in section 12 of the Insolvency Act 1996), bankruptcy, reorganization, arrangement, receivership or liquidation by or against the other party or if either party makes an assignment for the benefit of creditors, seeks protection from creditors under bankruptcy protection laws or ceases to carry on business in the ordinary course.
24. **ASSIGNMENT:** Seller shall not assign an Order or any portion thereof or work thereunder or any interest therein, except to the extent that Seller may, with the prior written consent of Buyer, make an assignment of monies due or which may become due thereunder to a bank or other financing institution; provided, however, that any such assignment shall be subject to set-off recoupment or any other lawful means of enforcing any present or future claim or claims which Buyer may have against Seller, and provided further that, any such assignment shall not be made to more than a single assignee. In the event of any such assignment, Seller shall provide to Buyer, in addition to written notice of the assignment, a true copy of the instrument of assignment for Buyer's information only and, notwithstanding such receipt by Buyer, such notice of assignment and/or instrument of assignment shall not be deemed to vary or waive the provisions of this paragraph. Buyer shall have the right to assign an Order or its interest therein to an Affiliate of Buyer or to any corporation succeeding to Buyer's business.
25. **REMEDIES:** The remedies reserved herein shall be cumulative and not alternative and may be exercised separately or together or in any order or combination, and in addition to any other remedies provided for or allowed by law, at equity or otherwise.

26. **WAIVER:** Either party's failure to insist on the performance by the other party of any term or condition hereof or of an Order or failure to exercise any right or privilege reserved herein or therein, or either party's waiver of any breach or default hereunder or under an Order by the other party shall not, thereafter, waive any other terms, conditions, rights, privileges, breaches or defaults, whether of the same or of a similar type or not.
27. **MODIFICATION:** No modification hereof or of an Order or waiver or addition to any of the terms or conditions hereof or of an Order, shall be binding upon Buyer, unless made in writing and signed by Buyer's authorized representative.
28. **UNENFORCEABILITY:** If any of these terms and conditions are held to be void or unenforceable by any reason of law, they shall be void and unenforceable to that extent only and no further, and all other terms and conditions shall remain valid and fully enforceable.
29. **NOTICE:** Any notice given by either party pursuant to these terms and conditions or an Order shall be validly given if in writing and delivered personally or by private prepaid courier or by facsimile or other similar means of electronic transmission or sent by first class post to the address or facsimile number (whichever is applicable) of the receiving party shown on the face of the relevant Order. Such notice shall be deemed to be received two days after posting in the case of notice sent by first class post and on the day it is actually received at the address or facsimile number (whichever is applicable) of the receiving party in all other cases.
30. **LAW AND JURISDICTION:**
- (a) Any controversy or claim of whatsoever nature arising out of or relating in any manner whatsoever to these terms and conditions or any Order or other agreement or contract to which these terms and conditions apply or any breach of any terms of such Order, agreement or contract shall be governed by and construed in accordance with the laws of England.
  - (b) Each party hereby irrevocably acknowledges and agrees that the Courts of England shall have exclusive jurisdiction to resolve any controversy or claim of whatsoever nature arising out of or relating in any manner to these terms and conditions or the terms of such Order, agreement or contract or any breach of these terms and conditions or the terms of such Order, agreement or contract.

31. **ENTIRE AGREEMENT:** These terms and conditions together with an Order, when accepted, embody the entire agreement between Buyer and Seller and no understanding or agreements, verbal or otherwise, in relation to an Order exist between the Seller and Buyer except as expressly set forth in the Order and except as set forth in any written long term contract between Buyer and Seller covering the Goods and/or Services.