

**FLIGHT REFUELLING LIMITED
STANDARD CONDITIONS OF PURCHASE
(FRL/PUR/SCP)**

1. DEFINITIONS

In these conditions and in all texts relating to the purchase order referring to these conditions, the following definitions will apply save where the context otherwise requires.

‘Customer’	means any Customer of the Purchaser
‘Government Conditions’	means conditions required by the Government Contract to which this Order pertains.
‘Order’	means the signed purchase order set out overleaf and any amendment in writing thereto.
‘Party’	means either the Purchaser or the Supplier.
‘Parties’	means both Purchaser and Supplier.
‘Purchaser’	means Flight Refuelling Limited whose registered office is Brook Road, Wimborne, Dorset BH21 2BJ
‘Specification’	means any written specification of technical requirements, drawings, description of the Supplies or the Supplier’s proprietary specification defined or referred to in the Order.
‘Supplier’	means the Supplier, sub-contractor, stockist or person on whom the Order is placed
‘Supplies’	means all articles, materials or work the subject of the Order.

2. APPLICATION

i) These conditions of purchase together with the Specification shall form an integral part of the Order and shall apply except to the extent that they may be inconsistent with any special conditions appearing on the face of the Order or otherwise Incorporated by reference on the face of the Order. These conditions and any such Special Conditions shall not be varied except with the written agreement of the Purchaser and Supplier as confirmed by amendment to the Order duly signed on behalf of the Purchaser by an authorised signatory.

ii) These conditions of purchase and any such special conditions exclude any other terms and conditions inconsistent therewith which the Supplier might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms and conditions inconsistent with them or may be contained in any acceptance or counter offer made by the Supplier.

3. ACCEPTANCE OF ORDER

i) The Supplier must accept the Order within 14 days of receipt. Failure to do so will give the Purchaser the right to cancel the order. Completion of the formal acknowledgement form or other agreed form of written receipt shall be deemed final acceptance of the Order.

ii) Commencement of work under the Order will be normally construed as acceptance by the Supplier of these conditions of purchase and any special conditions. Notice will be taken of any outstanding objections under negotiation. The Purchaser will not accept responsibility for any Supplies unless supplied in accordance with the Order.

4. ASSIGNMENT

The Supplier shall not assign or transfer or purport to assign or transfer the Order or the benefits thereof to any other person without the prior written consent of the Purchaser, such consent to be given or withheld as the case may be at the Purchaser’s sole discretion.

5. DELIVERY AND RISK

i) Time of delivery shall be of the essence and shall be strictly in accordance with the Order. The Purchaser will have the option to cancel the order wholly or in part without liability to the Purchaser where delivery is not made on the date(s) specified without prejudice to any other right or remedy which the Purchaser may have. The Supplier shall not be liable for delays in delivery due to causes beyond the Supplier’s control and without the Supplier’s fault or negligence including Act of God, fire, flood, explosion or earthquake, quarantine restrictions, serious accidents, Government actions, war, riot, insurrections or labour disputes provided that in such cases the Supplier promptly notifies the Purchaser of any delay or anticipated delay as soon as it is known and resumes performance as soon as possible thereafter, taking all necessary steps to mitigate the impact of delay so caused. Where any such delay exceeds 30 days the Purchaser shall be entitled to cancel the Order without liability to the Purchaser except in respect of Supplies or services already delivered to the Purchaser prior to such cancellation.

ii) Delay in delivery which arises directly from the failure to perform of any of the Supplier’s sub-contractors will not be accepted as an excusable reason for delay unless there is a proven case of ‘Force Majeure’ affecting or having affected the sub-contract concerned and the Supplier has promptly notified the Purchaser accordingly.

iii) If, due to circumstances beyond the control of the Purchaser including, but not restricted to, Act of God, fire, flood, strikes and lockouts whereby the Purchaser is unable to take delivery of the Supplies on the specified delivery date, the Purchaser may wholly or partly suspend acceptance of deliveries with immediate notice to the Supplier.

iv) Unless otherwise agreed by the Purchaser in writing, the Supplies shall be at the risk of the Supplier until delivered to the Purchaser or its authorised agent in accordance with the stated Incoterms 2000 conditions. (DDU FRL if from overseas and FCA Wimborne if from the UK)

6. ACCESS

Representatives of the Purchaser shall be granted access to the Supplier’s premises and those of any subcontractor(s) to the Supplier at any reasonable time to check the progress of the work on the Supplies and audit records, and the Quality Manager of the Purchaser or his representative or any other representative of the Customer or the Customer’s agent or any Government Department concerned shall be entitled on the authority

of the Purchaser to inspect the Supplies which are the subject of the Order, at any reasonable time at the Supplier's works or at the premises of permitted subcontractor(s).

7. PASSING OF TITLE

Without prejudice to the Supplier's other obligations herein title to the Supplies shall pass to the Purchaser upon delivery at the Purchaser's works or other place as may be defined on the Order.

8. QUALITY CONDITIONS

The Supplies shall be subject to the quality assurance conditions specified in the Purchaser's Quality Assurance Manual document reference QAM10.

9. ADVICE/RELEASE CERTIFICATES

Not used.

10. QUANTITY

No quantity delivered over and above that called for on the Order will be accepted or paid for without the prior agreement in writing of the Purchaser.

11. PRICE

i) Where prices have been agreed, no alteration to prices shall be made without the consent of the Purchaser in writing.

ii) Where the Order is marked 'Price to be Agreed (TBA)' quotations must be submitted by the Supplier and shall be formally accepted by the Purchaser by confirming Order amendments before any binding contract shall be made.

iii) All prices shall include packing and boxing of the Supplies and must be delivered carriage paid in accordance with the instruction on the face of the order and at the Supplier's own risk. All cases and packaging material will be non-returnable and non-chargeable unless the contrary is stated on the Supplier's advice note, in which event such cases will be returned at the Supplier's expense.

iv) Any indirect charges which have been agreed pursuant to Clause 5 (iv) of these conditions of purchase shall be separately detailed in the invoice.

12. INVOICES AND PAYMENTS

i) The Supplier shall ensure that prior to submitting to the Purchaser any invoice, debit note or credit note raised in connection with the Order, that details of the Supplier's bank sort code, account number and bank name and address have been advised to the Purchaser.

ii) Invoices should quote Order number, item number, part and drawing numbers, description in full, quantities and weights.

iii) All invoices shall state the price of the Supplies exclusive of Value Added Tax (VAT) and show the Amount of VAT (if applicable) separately.

iv) The Purchaser's normal method of Payment against the value of approved invoices, less any Supplier's credit notes or Purchaser's debit notes applicable will be made by Bankers Automated Clearing Services such that accounts will become payable at the end of the month following the month in which delivery of the Supplies has taken place and a valid compliant invoice has been received. N.B. earlier payment may be made

subject to satisfactory arrangements being made (i.e. discounts).

13. TERMINATION

i) **For Default** In the event of a breach or non-observance of any of these conditions of purchase, the Purchaser may give the Supplier written notice of such breach or non-observance following which the Supplier shall have 28 days from receipt of such notice in which to rectify the breach or non-observance. In the event that the Supplier fails so to rectify, then the Purchaser shall have the right to give the Supplier notice forthwith terminating without compensation the whole or any part of the Order and any contract arising out of the Order. The Purchaser reserves the right to recover from the Supplier the extra cost of purchasing the Supplies from other sources.

ii) **For Insolvency** Should the Supplier (being an individual or firm) have any distress or execution levied upon a substantial part of its property or assets, or offer to make an arrangement with its creditors or commit any act of bankruptcy or have a petition in bankruptcy presented against it, or should the Supplier (being a limited liability company) pass a resolution for winding up or have any petition for winding up presented, such winding up in either of the above cases being other than for the purposes of a bona fide amalgamation or reconstruction, or should the Supplier have a receiver of its undertaking appointed or make a general assignment of its assets for the benefit of its creditors, then the Purchaser shall have the right to give the Supplier written notice forthwith terminating the Order without compensation.

iii) **For Convenience** The Order may be terminated by the Purchaser at any time in whole or in part by delivery to the Supplier of a notice of termination. In the event of such notice being given, the Supplier shall stop work forthwith and comply with any directions with regard to the Supplies, which may be given by the Purchaser. Subject to the Supplier submitting within six weeks from the effective date of termination his termination claim in the form prescribed by the Purchaser in the notice of termination, the Purchaser undertakes to pay a fair and reasonable price for all work accepted in accordance with the terms of the order up to the time of termination. Such payments made for work accepted, taken together with any sums paid or becoming due to the Supplier under the Order shall not exceed the total price of the Supplies under the Order.

iv) Any termination of the Order shall not prejudice any rights which shall have accrued or shall accrue to either party.

14. PATENTS

i) Except where the Supplies are manufactured to detail drawings supplied the Purchaser, the Supplier will indemnify the Purchaser against any action, claim or proceeding relating to infringement or alleged infringement (whether by manufacture, use, sale or otherwise) of any patents or registered design or other industrial property right arising in connection with the Supplies and to indemnify in like manner any Customer of the Purchaser or the operator of any equipment or system supplied by the Purchaser in cases where such equipment or system incorporates the supplies.

ii) Where the Supplies contain or constitute reports, designs or other like work to be undertaken on behalf of the Purchaser, all copyright, patents and other industrial

property rights arising from such Supplies shall be the property of and vested in the Purchaser, and the Supplier shall do all acts and things necessary to perfect and assure such vesting.

15. FREE ISSUE

- i) All specifications, drawings, patterns, tools, materials and other material, equipment and data loaned by the Purchaser to the Supplier for use in connection with the Order, will remain at all times the Purchaser's property and be surrendered to the Purchaser upon demand in good and serviceable condition (fair wear and tear accepted) and are to be used by the Supplier solely for the purpose of completing the Order.
- ii) Free issue items as categorised under 15 (i) while in the Supplier's possession or control be at the Supplier's risk and shall be maintained in good and serviceable condition.
- iii) The Purchaser will not accept liability for any free issue items as categorised under 15 (i) received by the Supplier from the Purchaser in a damaged state under or in connection with the Order unless such damage is ratified in writing to the Purchaser within five days of the receipt by the Supplier of such parts or materials.
- iv) All scrap arising from material free issued by the Purchaser which is in excess of the authorised scrap allowance shall be replaced by the Supplier at the Supplier's expense.
- v) On completion of the Order or otherwise, as directed by the Purchaser, the free issue items as categorised under 15 (i) shall be returned to the Purchaser at the Supplier's risk and expense. In the event of the Supplier's non-compliance with this sub-clause or 15 (i) the Purchaser may withhold or require the reimbursement of such part of any payments due to the Supplier, as is necessary to replace or repair the Purchaser's property.

16. PRODUCT SUPPORT AND DOCUMENTATION

- i) The Supplier shall comply with every requirement of the Purchaser's relevant Specification or direction, if any, relating to product support including inter alia supply, free of charge, technical data, publications, modifications and spare data.
- ii) The Supplier will provide the Purchaser with all current and future instructions relating to the use and maintenance of the Supplies, and in particular, draw attention to any dangers which may be met during their handling or application, or in their use in processing.

17. WARRANTY

Any warranty given by the Supplier to the Purchaser or implied by law with respect to Supplies shall be deemed to be given for the benefit of, and enforceable by Customers or any ultimate Users to whom such Supplies shall be sold subsequently.

18. PRODUCT LIABILITY

Subject to the proviso hereto, the Supplier shall indemnify the Purchaser against any award of damages and costs made pursuant to a claim or claims under Part 1 of the Consumer Protection Act 1987 in respect of any defect(s) in the Supplies provided that this indemnity shall not extend to any award made pursuant to a claim which, if it had been made against the Supplier, the Supplier would have had a complete defence.

19. INSURANCE

Where the Supplier is required to perform services of construction installation and/or servicing on the premises of the Purchaser or on premises prescribed by the Purchaser, the Supplier agrees to effect (and if so required to demonstrate to the Purchaser that he has effected) public liability insurance in an amount of not less than £5,000,000 per event in respect of loss, damage or injury to property or persons.

20. CONFIDENTIALITY

The Order and the subject matter thereof shall be treated as confidential between the Supplier and the Purchaser and shall not be disclosed in whole or in part by the Supplier or any sub-contractor of the Supplier to any third party or used by the Supplier or any such sub-contractor for any purpose other than supplying the Supplies to the Purchaser. All specifications, design drawings and information, and all copies thereof must be retained in safe custody and maintained in good condition until disposal is agreed upon by the Purchaser. The Supplier shall not make use of the Purchaser's name or of any information contained in the Order or related documents, for publicity purposes without the Purchaser's written consent.

21. NOTICES AND COMMUNICATIONS

- i) All notices and communications shall be in writing.
- ii) Any notice or other communications sent to the Supplier shall be sufficient if sent to an address notified to the Purchaser for the purpose, or to the address of the Supplier last known to the Purchaser.
- iii) Notices or other communications sent by the Supplier to the Purchaser shall be sent to the address given for the Purchaser on the face of the Order, for the attention of the Purchasing Manager.

22. WAIVER

Any concession, latitude or waiver allowed by the Purchaser to the Supplier in respect of any term hereof at any time, shall not prevent the Purchaser from subsequently enforcing that term and shall not be deemed a waiver of any subsequently breach.

23. HEALTH, FIRE AND SAFETY

The Supplier, its employees and its sub-contractors shall comply with the current edition of the Purchaser's publication 'Safety Regulations for Contractors' and all other pertinent Purchaser's documents and regulations including without limitation those relating to Health, Fire and Safety. The Supplier shall provide its employees with, and shall ensure that its employees and sub-contractors employees use the protective clothing and safety equipment required by the said publications regulations and documents.

24. INTERPRETATION AND SEVERABILITY

- i) Clause headings are for convenience only and shall not govern the interpretation of these standard conditions of purchase.
- ii) In the event that any condition or provision of the Order shall be nullified or made void by Government law, decree, regulation or order, or by the decision or order of any Court having jurisdiction, the remaining terms, conditions and provisions of the Order shall remain in full force and effect.

25. APPLICABLE LAW

- i) These conditions shall be governed by, construed shall take effect in accordance with the Laws of England and any action arising there from shall be brought only in a court in England.
- ii) Nothing in these Conditions shall prejudice any condition or warranty (express or implied) or any other right or remedy to which the Purchaser is entitled in relation to the Supplies by virtue of statute law, common law or otherwise.
- iii) Nothing in these conditions creates, nor is intended to create, 3rd party rights under the Contracts (Rights of Third Parties) Act 1999.

26. ITAR – EAR – Export Control

- i) The Supplier shall be responsible for ensuring full compliance with all International Traffic in Arms Regulations (ITAR)/EAR controls. The Supplier shall maintain robust process and procedures to ensure compliance with said regulation through out the supply chain. It is the Supplier's responsibility to make the Purchaser fully aware of all parts or component parts thereof, supplied that may be subject to ITAR or EAR and shall ensure all documentation both internal and supplied to Flight Refuelling is appropriately marked. The Supplier shall maintain and have available for audit the following a) inventory tracking and control; b) record keeping receipts & disposition; and c) register of details of persons who access I.T.A.R controlled technology.
- ii) The Supplier shall be responsible for securing any Export Licenses and any necessary security clearances from the appropriate national government(s) for exports to the UK and beyond where appropriate, and use as required by the User or Purchaser's Customer, in respect of any equipment which is to be manufactured outside the UK, any data, drawings, specifications, software and other like information required for manufacture of any equipment under licence in the United Kingdom and the provision of all other information, documentation and data required to satisfy in full the requirements of this order.

27. DELAY IN DELIVERY

In the event of delay in delivery and the Purchaser elects not to terminate the Order in accordance with the foregoing conditions, the Supplier shall be liable to the Purchaser, for liquidated damages in respect of the Supplies that are the subject of the delay. Liquidated damages shall amount to 1% of the value of the items in delay per week of delay, up to a limit of 15 weeks of delay. This is a pre-estimate of the cost to the Purchaser as a result of such delay. These damages shall be recoverable from the Supplier through either issue of an invoice by the Purchaser or by deduction of the relevant damages from any monies due to the Supplier.

28. GOVERNMENT CONTRACTS

- i) Where it is indicated on the face of the Order that the Order is placed in connection with a Government Contract, the Order shall be subject to such conditions of Government Contracts as from time to time are applied or amended and to such other Government conditions from time to time in force as the Purchaser shall specify in writing (the 'Government Conditions'). In applying the Government Conditions the necessary variations and modifications of wording (mutatis

mutandis) shall be made to render the same applicable to these conditions of Purchase.

- ii) The Supplier undertakes to and hereby indemnifies the Purchaser in respect of any liability of the Purchaser for damage to or loss of Government, Customer or Purchaser issued property to the extent that such liability arises on account of any act or omission on the part of the Supplier of its servants or agents. If any of the conditions of purchase contained herein conflicts with any corresponding Government Conditions the latter shall prevail to the extent of the inconsistency provided always that nothing shall limit the rights of the Purchaser under Conditions 8 (ii), 13 and 14 hereof.