

## **On Track Design Solutions Standard Terms and Conditions**

### **1. ACCEPTANCE OF ORDER AND EXPIRY DATE**

Orders are accepted only upon the Seller's Conditions of Sale as printed herein and unless expressly accepted by the Seller in writing no variation amendment or qualification of these conditions by the Buyer in whatever form shall apply. Unless previously withdrawn or otherwise qualified in the quotation, the Seller's quotation shall expire twenty-one (21) days after the date thereof. No contract shall be created until receipt by the Seller of the acceptance in writing on the part of the Buyer of a quotation made by the Seller.

### **2. EXTENT OF SERVICES AND OWNERSHIP**

The Services to be supplied by the Seller shall be as specified in the Seller's quotation. Any title including copyright which the Seller may have in all drawings and data supplied by the Seller to the Buyer under the Contract shall on payment in full by the Buyer of all sums owed to the Seller vest in the Buyer but until such payment all rights in the products of the Seller's services shall remain with the Seller. Nothing herein shall prevent the Seller from using exploiting and protecting as it sees fit any technical innovation it may develop as a result of performing Services whether such innovation is shown in such drawings and data or not.

### **3. PRICES**

Prices for the Services shall be as specified in the Seller's quotation.

### **4. DELIVERY**

Any date specified by the Seller for completion of the Services shall unless otherwise specified in the quotation, be an estimate only and subject to receipt of all necessary information from the Buyer in a timely manner and shall not be of the essence of the Contract. The Seller shall not be liable in any way in respect of late completion of the Services howsoever caused nor shall such failure be deemed to be a breach of the Contract.

### **5. TERMS OF BUSINESS**

The Contract price shall be paid in instalments or otherwise as specified in the quotation. Unless otherwise stated prices quoted are net and accounts are due for payment within thirty (30) days after submission. The Seller shall have the right to charge interest at LIBOR plus four per cent (4%) per annum on all overdue accounts.

### **6. WARRANTIES AND EXCLUSIONS**

The Seller shall use reasonable care and skill in fulfilling the Buyer's order hereunder but save to such extent any liability for negligence and warranties and representations and guarantees as to the quality and fitness for purpose of the work undertaken by the Seller whether written or implied or imposed by law shall be excluded to the extent permitted by law. The Buyer acknowledges and agrees that in view (inter alia) of the Seller's undertaking its obligations pursuant to the detailed requirements of the Buyer the Seller does not accept and will be under no liability to the Buyer or any other person for any injury loss damage cost or expense incurred or suffered directly or indirectly from the use or exploitation in any manner or form of the services or the products of the services performed hereunder.

### **7. INFRINGEMENT CLAIMS**

The Buyer shall be responsible for satisfying itself before putting any drawings and data supplied by the Seller to use that such drawings and data do not infringe any right of any third party in respect of any patent copyright or trade secret as to which infringements the Seller shall have no liability whatsoever.

### **8. FORCE MAJEURE**

Should provision of the Services be prevented or delayed by happenings or occurrences directly or indirectly due to industrial dispute or any other circumstances whatsoever beyond the reasonable control of the Seller, the estimated time for completion of the Services shall be extended by the period of the delay.

### **9. INDEMNITY**

The Buyer shall indemnify the Seller against any claims demands expenses or liability which the Seller may incur arising out of or in connection with the use to which the Buyer may put the Services or any infringement or alleged infringement of any patent registered design copyright or other rights which result from such use.

### **10. RETENTION OF INFORMATION**

Unless specifically agreed otherwise in writing the Seller shall not be obliged to retain any drawings, models, notes, computer tapes, or other information for a period in excess of three (3) calendar months after completion of the Services to be provided hereunder.

### **11. BUYER'S BANKRUPTCY**

If the Buyer shall make default in or commit any breach of any of the Buyer's obligations to the Seller or if any distress or execution shall be levied upon the Buyer or if the Buyer being an individual shall offer to make any arrangement with creditors or commit any act of bankruptcy or if any Petition in bankruptcy shall be presented against the Buyer or if the Buyer is a limited company any resolution or petition to wind up such company's business (other than for the purposes of any amalgamation or reconstruction which becomes effective) shall be passed or presented, the Seller shall have the right *forthwith* to terminate by written notice posted to the Buyer any contract then subsisting without prejudice to any claim or right the Seller may otherwise make or exercise and on giving such notice the full payment due pursuant to this agreement shall immediately become due.

### **12. DEFAULT IN PAYMENT**

Should default be made by the Buyer in paying any sum due to the Seller or in performing any other obligations to the Seller, the Seller shall have the right with or without notice at its discretion either to suspend all further performance of the Contract until the default be made good or to terminate any Contract then subsisting so far as any further Services remain to be performed without prejudice to any claim or right the Seller might otherwise make or exercise.

### **13. CONFIDENTIALITY**

The Buyer shall not divulge to any third party any confidential information concerning the Seller's business or activities whether the working methods, the pricing calculations or any other information of value or potential value to the Seller's competitors.

### **14. ARBITRATION AND GOVERNING LAW**

The construction validity and performance of this Contract shall be governed by the law of England and any question dispute or difference which may arise under, out of or in connection with or in relation to the Contract or touching the meaning and construction of the same shall be referred to the arbitration of a person to be appointed failing agreement of the parties by the President for the time being of the Law Society of England and the decision of such *arbitrator* shall be binding on both parties and shall be a submission on to arbitration within the meaning of the Arbitration Act 1950 or any re-enactment or statutory modification thereof for the time being in force.