

Longwood Engineering Co. Ltd only supply goods and services on these Terms. You, the Customer, will only purchase the goods and services on these Terms save as expressly set out in our Quotation, or Order Acknowledgement. These Terms are important and should be studied carefully.

## 1 INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions

<b>“Contract”</b>	Any contract between Longwood Engineering and the customer for the sale and purchase of the Goods, incorporating these terms
<b>“Customer”</b>	The person, firm or company who purchase the Goods from Longwood Engineering.
<b>“Goods”</b>	any goods agreed in the Contract to be supplied to Customer by Longwood (including any part or parts of them).
<b>“Longwood”</b>	Longwood Engineering Co Ltd (Company Registration Number 73961) having its registered office at Silver Street, Huddersfield HD5 9BS
<b>“Intellectual Property Rights”</b>	intellectual property rights of whatever nature (including, but not limited to, patents, design rights, trademarks, rights attaching to databases and present and future copyright and all similar rights subsisting (including all applications for all or any such rights);
<b>“Order Acknowledgement”</b>	the order acknowledgement (if any) sent by Longwood to the customer confirming the Goods to be provided and the terms on which the goods are to be supplied:
<b>“Price”</b>	the price agreed to be payable for the Goods as set out in the Quotation
<b>“Quotation”</b>	the written quotation supplied by Longwood to the Customer setting out the Goods, the Price, and any special terms to be included in the Contract valid for 60 days unless otherwise specified in writing by Longwood; and
<b>“Terms”</b>	these terms and conditions

1.2 The headings in these Terms are inserted for convenience only and will not affect its construction or interpretation. References to clauses are unless otherwise stated, references to the clauses of these Terms.

1.3 Words importing the singular include the plural and vice versa.

1.4 Words importing a gender will include all genders.

1.5 References to any statute, statutory provision or statutory instrument include a reference to that statute, statutory provision or statutory instrument as amended, consolidated, replaced or re-enacted together with all rules and regulations made under it or them as from time to time amended, consolidated, replaced or re-enacted

1.6 In the case of conflict or ambiguity the order of precedence for these Terms and the documents attached to or referred to in these Terms will be as follows:

- 1.6.1 the Order Acknowledgement
- 1.6.2 then the Quotation; then
- 1.6.3 these Terms

## 2 QUOTATIONS AND THE APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract will be on these Terms to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer’s purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract

**2.3** These Terms apply to all Longwood sales and any variation to these Terms and any representations about the Goods will have no effect unless expressly agreed in writing and signed by a director of Longwood. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Longwood which is not set out in these Terms. Nothing in this clause will exclude or limit the company's liability for fraudulent misrepresentation.

**2.4** Each order or acceptance of a Quotation for Goods by the Customer from Longwood will be deemed to be an offer by the Customer to buy Goods subject to these Terms.

**2.5** No order placed by the Customer will be deemed to be accepted by Longwood until Longwood issues an Order Acknowledgement or (if earlier) Longwood delivers the Goods to the Customer.

**2.6** The Customer will ensure that the Terms of its order and any applicable specification are complete and accurate

**2.7** Unless otherwise specifically indicated in the Quotation, all transactions are between Longwood and the Customer as between principal and principal, provided that Longwood shall have the right to assign or sub-contract any of its rights and obligations in respect of any order accepted by it.

**2.8** If any Customer is not prepared to enter into a contract based on the Terms, he should so inform Longwood in writing prior to placing an order, indicating the conditions to which he objects. Longwood may then prepare a revised quotation to take account of any additional costs or liability, which it may sustain as a result of any amendment in such conditions, including (but without prejudice to the generality of the foregoing) the premiums for any additional insurances which Longwood may deem it necessary or prudent to effect.

**2.9** An order from a Customer must be accompanied by sufficient information to enable Longwood to proceed with the order forthwith, otherwise Longwood is to be at liberty to amend the Price to cover any increases in cost which may take place after Longwood accepts an order. In the event of variations or suspension or cancellation of the work due to the Customer's instructions or lack of instructions Longwood shall have the option either of terminating the Contract and being indemnified by the Customer for the loss to it or of increasing the Price when work is renewed to cover any extra cost thereby incurred by Longwood.

### **3 PRICES**

**3.1** In the absence of express agreement to the contrary, the Price will be as set out in Longwood's price list published at the time of delivery

**3.2** Prices quoted or agreed upon are based on costs of materials, rates of wages, taxes and import duties at the time of quoting or acceptance. In the event of any increase in any costs (including, but without prejudice to the generality of the foregoing, the said costs), Longwood shall be entitled to increase the Price accordingly without notice.

**3.3** If any special stipulations have been made which involve the inclusion of specific categories of additional costs and expenses in the Price (e.g. if the price has expressly been fixed upon the basis of "free", "F.O.B." or "C.I.F" delivery) all increases arising after quotation or acceptance, in such additional costs and expenses and all additional costs and expenses which may be chargeable to Longwood arising or resulting from delay in shipment will be charged to the Customer.

**3.4** The currency of account shall be pounds sterling, provided that in cases where it is necessary for Longwood to purchase goods or materials by reference to a currency other than pounds sterling then any increase or decrease in the sterling equivalent caused by any variations in the rate of exchange between pounds sterling and such other currency occurring between the date of quotation and the date of payment shall be debited or credited to the Customer as the case may be.

**3.5** All prices are based on delivery ex Longwood depot and are exclusive of value added tax and packaging. All additional costs and expenses including all taxes and duties payable in respect of the Goods at the time of delivery or thereafter shall be paid by the Customer. Unless otherwise stated in the Quotation, all packing cases, crates, skids, drums and other packing materials are non-returnable and chargeable to the Customer.

**3.6** All taxes, excise duties, levies or charges required to be paid directly or indirectly by Longwood under any existing or future law whether in the United Kingdom or elsewhere in respect of any goods manufactured or supplied by Longwood shall be to the account of the Customer.

**3.7** The Quotation includes only such Goods, accessories and work as are expressly specified therein. Any deviation from its general terms involving extra expenses to Longwood will be charged extra. Longwood accepts no responsibility for extras or variations, which are not ordered by the Customer in writing and confirmed by Longwood.

### **4 TERMS OF PAYMENT**

**4.1** Unless expressly agreed otherwise, accounts are strictly net 30 days and are due for payment from the date on which either the Goods are despatched or the Customer is notified that the Goods are ready for despatch whichever is the earlier.

**4.2** The due date of payment shall not be postponed on account of additions, alterations, minor omissions, or defects to from or in the goods, which do not substantially affect the commercial use of the Goods.

**4.3** All amounts due to Longwood from the Customer shall become immediately payable if any petition be served or resolution passed for the winding up of the Customer or if any receiver or administrative receiver be appointed of the whole or any part of the Customer's assets or undertaking or any similar action is taken with regard to debt, whether in or out of court

**4.4** All payments shall be made without any deduction and the Customer shall not be entitled to deduct the amount of any claim, which he may have against Longwood

**4.5** In the event of any payment from the Customer being overdue, Longwood may defer further deliveries until all overdue payments are made or at its option may terminate any or all contracts with the Customer so far as they are not fulfilled without incurring any liability whatsoever.

**4.6** Interest at the rate of 3 percent per annum above HSBC P.L.C. base lending rate shall be payable on all accounts due by Customers from the date on which payment is due until the date on which payment is made.

**4.7** Longwood reserves the right to require from the Customer at any time security satisfactory to Longwood for performance of the Customers obligations under any contract with Longwood. Refusal or failure by the Customer to furnish such security shall entitle Longwood to suspend deliveries until such security is furnished or to cancel all or any contracts with the Customer so far as they are not fulfilled without incurring any liability whatsoever and all the rights reserved pursuant to this clause shall be exercisable by Longwood at any time during the subsistence of the Contract.

## 5 DELIVERY

**5.1** Any times quoted for despatch or for the completion of any works are to date from Longwood acceptance of a written order to proceed and receipt by Longwood of all necessary information and drawings to enable Longwood to put the work in hand and to proceed uninterruptedly therewith and any initial deposit due under the contract.

**5.2** All quoted times are to be treated as estimates only, not involving any contractual obligation unless Longwood has agreed in writing signed by a director of Longwood specifically referring to this clause 5.2 that despatch or delivery within a specified time or by a specified date shall be of the essence of the contract. The times quoted shall be increased by the period or periods of any such delay

**5.3** Where Longwood have expressly agreed that the time for delivery will be of the essence of the Contract, then such liability shall be limited to the lesser of:

**5.3.1** The amount of any direct loss suffered by the Customer because of late despatch or delivery;  
or

**5.3.2** One half of one per cent of the Price to the Customer per week of the period of delay with a maximum of five per cent of the Price

**5.4** Where Goods are to be despatched in instalments, Longwood shall incur no liability in not maintaining or complying with the specified rate of despatch and the Customer shall not have the right to cancel any Contract due to any part of any order being delivered late.

**5.5** Delivery may be effected by any method of transport at Longwood's option. If the carriage of goods is by road, the Road Haulage Association Conditions of Carriage as amended from time to time will apply. If the carriage is by sea, the carriage of Goods by Sea Act 1971 incorporating the Hague-Visby rules will apply. Any transport by rail will be subject to the terms and conditions of that rail carrier.

**5.6** Upon the Goods being surrendered to the forwarding agent or to the carrier, or upon their leaving Longwood's place of business, whichever is the earlier, the Goods shall be deemed to have been delivered and all risks attaching directly or indirectly to the Goods shall pass to the Customer unless otherwise expressly agreed, for instance when "F.O.B." OR "C.I.F." or "Carriage Paid" delivery or any other similar stipulation shall have been agreed which in its customary interpretation indicates that the risk passes at a date later than that hereinbefore stated. The risk shall pass notwithstanding that the property in the Goods may not have passed to the Customer

**5.7** If Longwood does not receive forwarding instructions within seven days after the date of notification that the Goods are ready for despatch, the Customer shall take delivery or arrange for storage. Longwood shall not be liable for deterioration of Goods in storage while awaiting delivery instructions.

## 6 DAMAGE OR LOSS IN TRANSIT

**6.1** When the price quoted includes delivery, Longwood will repair or replace the Goods involved in respect of damage or loss in transit up to the level of indemnity provided by the conditions under the terms of which the Goods may be carried provided the carriers and Longwood receive written notification of such damage or loss in accordance with the afore mentioned conditions and, in any event, in the case of alleged damage, within three days of delivery.

**6.2** Subject to the foregoing. Longwood shall have no liability for any loss, injury or damage of any kind direct or consequential arising out of damage or loss in transit. Transit shall be deemed to be completed when Goods are offloaded at the point of delivery and the onus of proof that any damage occurred before such offloading shall lie on the Customer

## 7 PASSING OF PROPERTY IN THE GOODS AND LIEN

**7.1** The property in any Goods supplied by Longwood shall not pass to the Customer until payment in full has been made to Longwood

**7.2** If any payment to Longwood is overdue in whole or in part, it may (without prejudice to any of its other rights) recover or resell any such goods as shall remain its property pursuant to clause 7.1 and it may enter upon the Customer's premises for that purpose

**7.3** The Customer shall not be entitled to sell any Goods supplied by Longwood until Longwood shall have been paid in full therefore. Nevertheless, where payment of all monies due has not been made and the Customer has sold any such goods, the Customer shall be trustee for Longwood of the proceeds of sale thereof or (as the case may be) such part thereof as shall be equal to the monies due to Longwood in connection with such Goods.

## **8** INSTALLATION AND SERVICE

**8.1** Where Longwood contracts to sell plant or equipment installed or where it undertakes to erect, install or service plant or equipment either as an independent or collateral contract, the following conditions apply:

**8.1.1** Unless they are specifically included in the Quotation, foundations and structural alterations are excluded from the Contract. In particular but without prejudice to the generality of the foregoing, Longwood excludes the work and cost of clearing, the support of plant or equipment, the erection of staging for the provision of access to plant or equipment, partitions for isolating machinery, cutting holes in walls and making good

**8.1.2** The Customer is responsible for the supply of power required for tools, artificial lights and heat required by Longwood workmen during installation if available.

**8.1.3** All contracts for installation of erection are based on the rate of wages, hours or working and conditions in force at the date of tender or quotation. In the event of there being alterations in wages, hours of working or conditions subsequent to the date of the Quotation and before the completion of the Contract, the contract price for the whole of the remaining portion of the work may be adjusted to meet the net increase or decrease in cost arising there from.

**8.1.4** Longwood shall be entitled to charge the cost of all overtime as an addition to the price, if expressly requested to work extra hours.

**8.1.5** All lagging of water piping and similar services are excluded unless specified.

**8.1.6** Unless specifically mentioned, all piping bringing water or any other substance or service to machines is excluded.

**8.1.7** Unless specifically mentioned, electric wiring is excluded.

**8.1.8** The provision of electrical and other services for operation of machinery of a type and capacity in all respects suitable therefore is the responsibility of the Customer

### **8.2** CONTRACTS FOR SUPERVISION ONLY

Where Longwood contracts to provide a supervisor but does not contract to carry out any works of installation or erection, then its liability in respect of such supervisor shall be limited to the advice and directions given by him in writing in relation to work carried out strictly in accordance with such advice and directions and then only subject to clause 15.3 hereof.

### **8.3** MATERIAL PROVIDED BY THE CUSTOMER

**8.3.1** Longwood shall be entitled to assume that all material delivered to it by the Customer is free from defect and fit and suitable for use, installation and erection. Longwood shall be under no liability in respect of any defects arising from the supply to it by the Customer of defective or unsuitable material

**8.3.2** The Customer shall be responsible for all damage to Longwood's plant or injury suffered by any person in Longwood's employ or on Longwood's place of business or premises arising from any defects in material supplied by the Customer.

### **8.4** STRUCTURAL WORK

Longwood accepts no responsibility for structural work. Any information or plans relating to structural work, which Longwood may supply, are supplied without accepting liability and should be referred to the Customer's architect, engineer or surveyor as the case may be.

## **9** PATENTS, DESIGNS AND MARKS

**9.1** The Customer warrants that any material, design or instruction furnished or given by or on behalf of the Customer shall not be such as will cause Longwood to infringe any third party's Intellectual Property Rights in the execution of the Customer's order and that the Customer indemnifies Longwood against any claims for infringement which may arise out of any such intellectual Property Rights. In the event of the Customer failing to take delivery of the whole or any part of an order produced to such design as aforesaid, then Longwood shall be entitled to sell such Goods on its own behalf and the Customer shall nevertheless indemnify as aforesaid.

**9.2** In cases where the design of the Goods is wholly or partly provided by or on behalf of the Customer, Longwood shall be entitled to accept such design or part thereof as the case may be as being without defect and capable of properly performing the function and accepting any stresses for which it is designed and Longwood shall have no liability for any failure in any such Goods or part as the case may be arising out of any design fault nor for any loss or damage consequent thereon.

**9.3** Furthermore, Longwood shall be entitled to assume that any plant, machinery or equipment set to work with Goods manufactured, supplied or processed by Longwood shall be in all respects fit for its purpose and Longwood shall be under no liability for any failure in such plant, machinery or equipment nor any failure in any Goods manufactured, supplied or processed by Longwood consequent upon such failure nor any loss or damage arising there from. Unless otherwise stated, any cost or repairing or reconditioning such Goods is excluded from Longwood's quotations and shall be for the exclusive account of the Customer

## **10 DRAWINGS**

**10.1** All descriptions and forwarding specifications, drawings and particulars of weights and dimensions, submitted with the Quotation are approximate only and the descriptions and illustrations contained in Longwood's catalogues, price lists and other advertisement matter are intended merely to present a general idea of the goods and services described therein and none of these shall form part of the Contract.

**10.2** Only such specifications, drawings and particulars of weights and dimensions as are specifically agreed by Longwood in writing to form part of the contract shall do so.

**10.3** Designs and information (including any intellectual Property Rights) concerning the Goods and contained in any drawings, which are supplied, shall remain the property of Longwood and must not be disclosed to a third party nor utilised in any way (whether or not any order be placed with Longwood based thereon) without Longwood's consent in writing.

## **11 SUITABILITY AND DEFECTS**

The Customer accepts the responsibility that Goods stipulated by him are sufficient and suitable for his purpose. Longwood shall be under no liability in respect of any unsuitability therefore unless Longwood advice as to suitability of the Goods for their purpose or end use has been sought by the Customer and accepted in the Quotation and in any event such liability shall be limited to that specified in clause 15.2

## **12 COMPLAINTS**

**12.1** Longwood shall be notified in writing promptly and in any case within five days after delivery of any defective Goods and the defective Goods or parts thereof are without cost to Longwood to be returned to Longwood on demand and shall be subject to Longwood's inspection.

**12.2** Complaints about quantities, weights or packing and mistakes in transportation or in expenses shall be made within five days after delivery.

**12.3** A claim lodged by the Customer on account of defects shall lapse three months after Longwood's written repudiation of the Customer's claim if the Customer has not then reverted to the claim.

## **13 HEALTH AND SAFETY AT WORK**

The Customer shall undertake with Longwood in writing fully to acquaint Longwood with all the operating conditions of Goods to be supplied by Longwood including any special risks of injury or damage to health, to seek and act on the advice of Longwood as to such guarding and other safety arrangements as may therefore be necessary, desirable or advised by a specialist consultant to be installed or adopted and to pay Longwood for the design, supply and installation of such guarding or other arrangements as to ensure that the Goods will be, so far as reasonably practicable, safe and without risks to health when properly used.

## **14 GENERAL GUARANTEE AND LIABILITY**

**14.1** Longwood undertakes to make good by replacement or repair (but excluding the cost of labour for the removal of any defective parts or for the refitting of repaired or replacement parts) defects in or failure of Goods supplied by Longwood and paid for by the Customer provided that routine maintenance of the said Goods has been carried out by the Customer and user in a satisfactory manner and provided that such defects or failure arise solely from faulty materials supplied by or workmanship carried out by Longwood and in any event arising within a period of twelve calendar months from the date when the said Goods shall have been first despatched at the termination of which period all liability on Longwood's part shall cease AND PROVIDED always that such defective parts are promptly returned free of cost to Longwood to its works unless otherwise arranged.

**14.2** In the case of Goods not of Longwood's manufacture including Goods manufactured or processed by Longwood sub-contractors, and in the case of processes applied by Longwood's sub-contractors to Goods not supplied by Longwood, the Customer is entitled only to such benefits as Longwood may receive and may pass on under any guarantee given to Longwood in respect thereof.

**14.3** This clause 14 and the provisions of clauses 6 and 10 are in lieu of any warranty, condition or liability whether express or implied which exists by common law, statute or otherwise in regard thereto and Longwood's liability in respect of any defect or failure in, or failure in performance of or loss of or damage to Goods in transit or lateness in delivery or despatch of goods supplied or for any loss, injury or damage attributable thereto or in connection therewith whether consequential or otherwise is limited to the foregoing undertaking and the provisions of clauses 6 and 10 and is conditional upon the Customer having fulfilled all the Customer's obligations to Longwood under the Contract, including the terms of payment.

## 15 LIMIT OF LIABILITY

**15.1** Nothing in these Terms will limit Longwood's liability for death or personal injury caused by Longwood's negligence.

**15.2** Subject to clause 15.1, in no case shall Longwood's liabilities in respect of any Contract exceed the Price.

**15.3** In no event shall Longwood be liable for any indirect damage or consequential loss, howsoever and by whomsoever caused or any other claim except as provided for in these Terms

## 16 FORCE MAJEURE

**16.1** Longwood shall be relieved of its obligations hereunder and of any liabilities herein contained whenever and to the extent to which the fulfilment of such obligations and liabilities is prevented, frustrated or impeded by conforming to any statute or any rule, regulation, order or requisition made there under or any consequence thereof, by war (whether declared or not) acts of public enemies, industrial disputes (including strikes, lockouts and other, industrial action whether at the place of business or premises of Longwood or elsewhere), accidents, fire, flood, nuclear fall-out, acts of God or any cause of like or different kind beyond the control of Longwood or any consequence thereof.

**16.2** In such circumstances Longwood shall have the option either to terminate the Contract or to extend the period for its completion without liability to the Customer and in the event of Longwood electing to extend the period of the Contract, it shall nevertheless have the right to cancel the Contract within six months of notice by Longwood to the Customer of the decision to extend the Contract

## 17 TERMINATION

**17.1** If the Customer shall make default in paying any sum of money due or shall become bankrupt or compound with or enter into any arrangement with his creditors or being a corporation shall enter into liquidation save for the purpose of amalgamation or reconstruction without insolvency or shall have a receiver appointed of the whole or any part of its assets, then without prejudice to the other rights of Longwood it may at any time forthwith terminate any contract without notice.

**17.2** In the event of variation, suspension or cancellation of the work under the Contract due to the Customer's instructions or lack of instructions Longwood will have the option either of terminating the contract and being indemnified by the Customer for the loss of it or increasing the Price to reflect those alterations.

## 18 INDEMNITY

The Customer will indemnify and save harmless Longwood from all claims, suits, actions and proceedings whatever that may be brought by any third party on account of injury, loss, damage or expense for which, according to these Terms, Longwood shall not be liable including without prejudice to the generality of the foregoing, those relating to the use of the Goods and those arising under the Consumer Protection Act 1987

## 19 ARBITRATION

If any dispute or difference shall arise between Longwood and the Customer touching or concerning these Terms or any Contract based on them or the rights, duties or liabilities of any party there under, then the matter in difference shall be referred to arbitration in conformity in all respects with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

## 20 CONSTRUCTION OF CONTRACT

**20.1** These Terms and any Contract concluded subject thereto shall be construed in all respects according to the laws of England and any arbitration or litigation arising under any such Contract shall be determined in England, provided that the expression "laws of England" shall not, in the case of any export contract, include any statutory provision which does not affect contracts between parties resident in different states

**20.2** These Terms shall apply (save insofar as they may be varied by written agreement signed by a director of Longwood) so far as they shall be held to be lawful and enforceable

**20.3** If any clause or any part of any clause shall be held to be unlawful or unenforceable then these Terms shall be read and construed as if such clause or part thereof as the case may be were omitted.