

**TERMS AND CONDITIONS
FOR PURCHASE OF GOODS**

The Supplier accepts and shall be legally bound to these Conditions upon execution of the Contract between the Purchaser and Supplier. No terms or conditions submitted at any time by the Supplier shall form any part of the Contract, unless otherwise confirmed by the Purchaser in writing and made a part of the Contract. The Contract shall become binding and these Conditions shall be deemed to have been accepted by the Supplier on the acceptance of the Purchase Order by the Supplier. In the event of a conflict between any of these Conditions and any specific term or condition referred to in the RFQ and the Purchase Order, the latter shall prevail.

1. DEFINITIONS**1.1** In these Conditions:

"Contract" means the contract between the Purchaser and the Supplier consisting of the Purchase Order, these Conditions, the RFQ, and any other documents (or parts thereof) specified in the Purchase Order;

"Delivery Date" means the date on which the Goods are to be delivered to the Purchaser, as specified in the Purchase Order

"Goods" means any such goods supplied to the Purchaser by the Supplier pursuant to or in connection with the Purchase Order;

"Price" means the price of the Goods as specified in the Purchase Order;

"Purchaser" means **"APPLIED ARCHETYPE SOLUTIONS LLC"**.

"Purchase Order" means the document setting out the Purchaser's requirements for the Contract and confirms the order of the Goods to be supplied by the Supplier;

"RFQ" means the Request for Quotation issued to the Supplier specifying the Purchaser's requirements and Terms.

"Supplier" means the person, firm or company who is the supplier of the Goods named in the Purchase Order.

1.2 The headings in these Conditions are for convenience only and shall not affect its construction or interpretation.

2. VARIATION

2.1 These Conditions may only be varied with the written agreement of the Purchaser.

2.2 The Purchaser reserves the right by reasonable notice to the Supplier to vary the Goods detailed in the Purchase Order and any alteration to the Price or delivery date arising by reason of such

modification shall be agreed between the Parties and evidenced in writing.

3. GOODS

3.1 The Supplier warrants and represents to the Purchaser that the Goods shall:

3.1.1 conform in all respects with any particulars or specification specified in the Purchase Order including any variations;

3.1.2 conform in all respects with the requirements of any statutes, orders, regulations or by-laws in force;

3.1.3 be of satisfactory quality and free from defects in materials and workmanship; and

3.1.4 be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Purchaser. r.

4. PRICE & PAYMENT

4.1 The Prices shall remain fixed for the duration of the Contract. No price adjustment shall be considered for any reason whatsoever, unless it is validly accepted by the Purchaser and agreed in writing before the execution of the Purchase Order.

4.2 Unless expressly agreed otherwise between the parties in writing, the Price shall be inclusive of all delivery and insurance costs, VAT and any other applicable sales taxes, duties or levies.

4.3 The Purchaser undertakes to pay submitted invoices within 60 days of receipt from the day of physical or electronic arrival at the nominated address of the Purchaser, or such number of days as may be specified by the Purchaser in the Purchase Order accepted by the Supplier. Invoices shall not be rendered by the Supplier until completion of delivery of all the Goods which are the subject of the Purchase Order.

4.4 A valid invoice is one that:
- is delivered in timing in accordance with the Contract;
- specifies the correct sum;
- is in respect of Goods supplied or delivered to the required quality (or are expected to be at the required quality);
- specifies the relevant Purchase Order No. / Contract Reference (where used)
- includes all documentary requirements specified in the Purchase Order
- which has been delivered to the nominated address .

4.5 The Purchaser specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier any monies due to the Purchaser from the Supplier.

4.6 The Purchaser shall not be liable for any orders or amendments to orders other than those issued or confirmed on the official Purchase Order and shall not be responsible for the payment of the Price for Goods supplied in excess of those required by the Purchase Order.

4.7 No payment of or on account of the Price shall constitute any admission by the Purchaser as to proper performance by the Supplier of its obligations under the Contract.

4.8 Payment Terms shall be Net 60 days. However, we may consider a Supplier discount if more prompt payment terms are beneficial to both parties. Supplier shall state its best discount for prompt payment on your proposal. Unless otherwise specified, Supplier shall deliver products to Freight Forwarders as specifically mentioned in our Purchase Order.

All invoice payments by Archesol will be made by Electronic Funds Transfer (EFT).

5. DELIVERY AND LATE DELIVERY

5.1 The Goods shall be delivered to the place named on, and in accordance with, the Purchase Order. Delivery shall be completed when the Goods have been unloaded at the point of delivery specified in the Purchase Order and delivery has been accepted by the Purchaser or its authorised representative. Any access to premises and any labour and equipment that may be provided by the Purchaser in connection with delivery shall be provided without acceptance by the Purchaser of any liability whatsoever or howsoever arising and the Supplier shall indemnify and keep indemnified the Purchaser in respect of any actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any damage or injury (including death) occurring in the course of delivery to the extent that any such damage or injury is attributable to any act, omission or negligence of the Supplier or any of its sub-contractors.

5.2 Where any access to the Purchaser's premises is necessary in connection with delivery, the Supplier and its sub-contractors shall at all times comply with the reasonable requirements of the Purchaser's Health, Safety and Security policies.

5.3 The time of delivery shall be of the essence for the purposes of the Contract. The Supplier shall promptly notify the Purchaser in writing if the Supplier anticipates that delivery will be delayed.

5.4 If the Supplier fails to deliver the Supplies to the Delivery Point by the corresponding Delivery Date specified in the Purchase Order the Supplier shall pay to the Purchaser liquidated damages in an amount equal to two per cent. (2%) of the Contract Price for each week (or part thereof) that delivery of the Goods is delayed beyond the corresponding Delivery Date. The Parties agree that the liquidated damages for delay represent an agreed



- genuine pre-estimate of the losses likely to be suffered by the Purchaser as a result of such delay and are not a penalty. The Supplier's maximum liability in respect of Delay Liquidated Damages shall not exceed ten per cent. (10%) of the Contract Price.
- 5.5 Where the Supplier has reached its maximum liability in respect of liquidated damages for delay, the Purchaser shall be entitled to release itself from any obligation to accept and pay for the Goods and/or to cancel all or part of the Goods under the Purchase Order, and shall entitle the Purchaser to purchase substitute Goods from a third party or third parties, in either case without prejudice to its other rights and remedies.
- 5.6 Failure by the Purchaser to exercise its options under Conditions 5.4 and/or 5.5 above in respect of any part of a Purchase Order shall not be deemed to constitute a waiver with respect to any subsequent part of that Purchase Order.
- 5.7 If Goods are delivered before the Delivery Date, the Purchaser shall be entitled to its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the Delivery Date.
- 5.8 Unless otherwise stated in the Purchase Order, the Supplier is responsible for obtaining and the cost of all the export and import licences for the Goods. The Supplier shall ensure that accurate information is provided to the Purchaser as to the country of origin and the Supplier shall be liable for additional duties or taxes should the country of origin prove to be different to the one stated.
- 5.9 The Supplier shall strictly comply with the following instructions on specifying the "Country of Origin" of the Goods, which shall be:
- either engraved or affixed by a non-removable sticker on each item of Goods to be supplied.
 - printed on all packaging of the Goods, including but not limited to crates, cartons, boxes, drums, etc.
 - clearly specified on the Packing List and Invoices; Supplier/manufacturer's address shall also be included in the Packing List
- The Supplier shall indemnify and keep indemnified the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of Condition 5.7 and/or 5.8 and/or 5.9.
- 6. OWNERSHIP AND RISK**
- Ownership and risk in the Goods shall without prejudice to any of the rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 8 below) shall pass to the Freight Forwarder (Metro Freight Services) on delivery.
- 7. DAMAGE IN TRANSIT**
- 7.1 On despatch of the Goods, the Supplier shall send to the Purchaser at the address for delivery of the Goods, an advice note specifying the means of transport, the place and date of despatch, the number of packages and their weight and volume.
- 7.2 The Supplier shall, free of charge and as quickly as possible, either repair or replace (as the Purchaser shall elect in its sole discretion) such Goods as may either be damaged in transit, or having been placed in transit fail to be delivered to the Purchaser provided that:
- 7.2.1 in the case of damage to such Goods in transit the Purchaser shall within thirty (30) days of delivery give notice to the Supplier that the Goods have been damaged; and
- 7.2.2 in the case of non-delivery the Purchaser shall (provided that the Purchaser has been advised of the despatch of the Goods) within ten (10) days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.
- 8. INSPECTION, REJECTION AND GUARANTEE**
- 8.1 Nothing contained in these Conditions shall in any way detract from the Supplier's obligations under the law or statute or any express warranty or condition contained in the Purchase Order.
- 8.2 The Supplier shall permit the Purchaser or its authorised representatives to make any inspections or tests it may reasonably require in relation to the Goods and the Supplier shall afford all reasonable facilities and assistance free of charge at the Purchaser's premises. The Supplier shall make good any defects or deficiencies in the event of any failure (in the sole opinion of the Purchaser) to comply with the terms of the Purchase Order or the Contract. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Goods.
- 8.3 The Purchaser may by written notice to the Supplier reject any of the Goods which fail to meet the requirements in the Contract. Such notice shall be given within a reasonable time after delivery to the Purchaser of the relevant Goods. If the Purchaser rejects any of the Goods pursuant to this Condition 8.3, the Supplier shall at the Purchaser's sole option (without prejudice to its other rights and remedies) either:
- 8.3.1 repair the defective Goods as quickly as possible or (as the Purchaser shall elect in its sole discretion) replace the defective Goods with Goods which comply in all respects with the requirements under the Contract; or
- 8.3.2 refund to the Purchaser the Price in respect of the defective Goods.
- 8.4 The Supplier shall guarantee the Goods for a period of twelve (12) months from installation or eighteen (18) months from delivery, whichever occurs first (subject to any alternative guarantee arrangements agreed in writing between the Purchaser and the Supplier). If the Purchaser shall, within such guarantee period or within thirty (30) days thereafter, give notice in writing to the Supplier of any defect in any of the Goods that have arisen during the guarantee period under proper and normal use, the Supplier shall (without prejudice to any of the Purchaser's other rights and remedies) as quickly as possible remedy such defects (whether by repair or replacement as the Purchaser shall elect in its sole discretion) without cost to the Purchaser.
- 8.5 Any Goods rejected or returned by the Purchaser pursuant to this Condition 8 shall be returned to the Supplier at the Supplier's risk and expense.
- 9. LABELLING AND PACKAGING**
- 9.1 The Goods shall be packed and marked in a proper manner and in accordance with the Purchaser's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Order Number, the net, gross and the weights, details of the contents shall be clearly marked on each container and all containers of hazardous goods (and all relating documents) shall bear prominent and adequate warnings.
- 9.2 The Supplier represents and warrants that all Goods shall be prepared and packed as per best commercial practice for export shipment in a manner to comply with any statutory requirements and carrier regulations, and prevent damage or deterioration during handling, shipment and indoor storage for up to ninety (90) days at destination. All shipments must contain a packing list which shall include the following information: Purchase Order number, item, serial number (as applicable), part number and any other applicable information. The Supplier agrees that any and all costs and/or expenses related to such packing and protection are included in the Contract Price. The Supplier shall indemnify and keep indemnified the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of Condition 9.1 and/or 9.2.
- 9.3 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. The Purchaser accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Purchaser.
- 10. INTELLECTUAL PROPERTY**
- 10.1 It shall be a condition of the Purchase Order that none of the Goods will infringe any patent, trade mark, design right (whether registered or not),



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copyright or any other right in the nature of intellectual property of any third party and the Supplier shall indemnify and keep indemnified the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 10.1.

10.2 All materials, equipment, software, inventions, specifications, instructions, plans or any form of intellectual property right in any of the foregoing ("**Intellectual Property**");

10.2.1 furnished to or made available to the Supplier by the Purchaser pursuant to the Purchase Order are hereby assigned to and shall remain vested solely in the Purchaser; and

10.2.2 the Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without prior written consent of the Purchaser, use or disclose any such Intellectual Property or any information (whether or not relevant to the Contract) which the Supplier may obtain pursuant to the Contract and in particular (but without prejudice to the generality of the foregoing) the Supplier shall not refer to the Purchaser or the Contract in any advertisement without the Purchaser's prior written agreement.

11. HEALTH AND SAFETY

11.1 The Supplier represents and warrants to the Purchaser that the Supplier has satisfied itself that:

11.1.1 all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed, manufactured, supplied and installed so as to be safe and without risk to the health or safety of persons using the same; and

11.1.2 that it has made available to the Purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health.

11.2 The Supplier shall indemnify and keep indemnified the Purchaser against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 11.

12. INDEMNITY AND INSURANCE

12.1 Without prejudice to any rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 8 above) the Supplier shall indemnify and keep indemnified the Purchaser against any and all actions, suits,

claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (including death) to any person which may result directly or indirectly from any defect in the Goods or the negligence, acts or omissions of the Supplier or any of its employees, agents or sub-contractors.

12.2 The Supplier shall take out and maintain with a reputable insurance company a policy or policies of insurance that are normal for contracts of this nature and covering all the matters which are the subject of indemnities under these Conditions.

12.3 The Supplier shall at the request of the Purchaser produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium.

12.4 The Supplier shall be liable under the provisions of the Contract (including Condition 12.1) whether or not it complies with the insurance provisions in this Condition 12.

12.5 Nothing in these Conditions or the Contract shall exclude or limit the liability of either Party for death or personal injury caused by its negligence or for fraudulent misrepresentation.

12.6 Without prejudice to the Supplier's indemnifications hereunder, neither Party will be liable for any special, indirect, consequential or punitive damages, including but not limited to, lost profits arising out of or related to this Contract.

13. CONFIDENTIALITY

13.1 The Supplier shall, and shall ensure that its staff shall keep secret and do not disclose any information of a confidential nature obtained by reason of the Contract except information which is in the public domain otherwise than as required to be by reason of a breach of this Condition 13 or disclosed by law.

13.2 The provisions of this Condition 13 shall apply during the continuance of the Contract and after its termination howsoever arising without limitation in time.

13.3 The Purchaser may, at its sole discretion, redact information from the Contract prior to publishing for one or more of the following reasons:

- (a) national security;
- (b) personal data;
- (c) information protected by intellectual property law;
- (d) information which is not in the public interest to disclose
- (e) third party confidential information;
- (f) IT security; or
- (g) prevention of fraud.

13.4 The Purchaser may consult with the Supplier to inform its decision regarding any redactions but

the Purchaser shall have the final decision in its absolute discretion.

14. TERMINATION

14.1 Termination for Convenience

Purchaser reserves the right to terminate the Contract in its entirety, or any part thereof, for its sole convenience, if Purchaser determines that a termination is in its best interest. Purchaser shall deliver a written notice of termination specifying the extent of termination and the effective date. Supplier shall immediately stop all work hereunder, and shall immediately cause any of its suppliers to cease all work. After receipt of a Notice of Termination, Supplier shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due:

a) Promptly stop all work as specified in the notice.

b) Place no further orders/contracts for materials or services except as necessary to complete the portion of the order to date of termination notice.

c) Terminate all third-party orders/contracts as they relate to the work terminated.

Supplier shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of work performed prior to the notice of termination, plus actual direct costs resulting from termination. Supplier shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Supplier's third-party sources which Supplier could have reasonably avoided.

Except as expressly set forth in the Purchase Order, in the event of termination of the Contract under Condition 14.1., the Supplier shall not be entitled to claim compensation or damages of any kind, other than the Price for such part of the Goods that have been delivered prior to the date of termination, for which the Supplier has not yet received payment.

In the event of Goods that are complete but not yet delivered but are ready for shipment within 15 days after the Supplier's receipt of the Notice of Termination, Purchaser shall accept such Goods at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:

(a) to have any portion completed and delivered at the Contract terms and prices; and/or

(b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.

14.2 Termination for Default

Purchaser may terminate the Contract in whole or in part, by written notice of default to Supplier if Supplier:



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a) Fails to deliver materials or products to perform the order requirements within the time specified in the Order or any respective extension, or

b) Fails in any material way to perform any of the Supplier's obligations under this Order, or so fails to make progress as to endanger such performance and does not cure such failure within seven (7) days of receipt of Purchaser's notice of such failure; or

c) In the event Supplier becomes insolvent or makes a general assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy or pursues any other remedy under any other law relating to the relief of debtors, or in the event a trustee or receiver is appointed for Supplier's property or business.

If Purchaser terminates this Order in whole or in part under Condition 14.2, Purchaser may acquire, under terms the Purchaser deems appropriate, products or services the same, or similar, to those terminated, and the Purchaser may withhold any payments due until the cost of completing the service has been calculated. Where the service is completed at an extra cost, the Purchaser may charge those costs against any monies withheld from the supplier.

14.3 Nothing in this Condition 14 shall affect the coming into, or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force upon termination of the Contract.

15. FORCE MAJEURE

15.1 Neither Party shall be liable for non-performance or late performance of any obligation under the Contract to the extent that the relevant Party's performance of such obligation is prevented by an event of Force Majeure.

15.2 For the purpose hereof "Force Majeure" shall mean an event or circumstance which is beyond the reasonable control of the affected Party, acting prudently and reasonably, and without the fault or negligence of the affected Party, that directly prevents or delays the performance of such Party's obligations under the Contract. The events of Force Majeure are:

(a) flood, fire, storm, lightning, tsunami, cyclone, hurricane, typhoon, tornado, earthquake, epidemic or other natural disasters or acts of God;

(b) acts of war or insurrection, such as declared or undeclared war, invasion, acts of foreign enemies, civil war, uprising, guerilla activity, riot, acts of terrorism, or any other hostilities; and

(c) strikes or lockouts of widespread application and which are not localized to the Supplier and/or its Personnel;

but, for the avoidance of doubt, shall not include:

(i) any inadequacy of funds or financing;

(ii) any event to the extent that the event is caused or contributed to by an act or omission of the Party relying on it or persons for whom that Party is responsible (including, in the case of the Supplier, any of its Personnel); or

(iii) government action, including the coming into effect, amendment of or enforcement of any laws, rules, regulations, directives or orders promulgated by any governmental authority or body having, or claiming to have, jurisdiction over the Parties or the operations hereunder after the Effective Date as well as government inaction, such as failure or delay in granting import licenses or other government permits or authorizations required to perform the activities contemplated hereby.

15.3 Where the period of delay in the performance of a Party's obligation under the Contract due to any Force Majeure event(s) exceeds three (3) consecutive months, the Purchaser shall be entitled in its sole discretion to immediately terminate the Purchase Agreement by giving written notice to the Supplier.

16. ASSIGNMENT AND SUB-CONTRACTING

16.1 The Supplier shall not without the prior written consent of the Purchaser assign or transfer the benefit or burden of the Contract.

16.2 No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.

17. NOTICES

Any notices to be given under the Contract shall be delivered personally or sent by post or by facsimile transmission, or by electronic mail to the Purchasing Manager (in the case of the Purchaser) or to the address set out in the Purchase Order (in the case of the Supplier). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or, if sent by facsimile transmission, 12 hours after proper transmission if sent by electronic mail, upon acknowledgement of receipt by return e-mail.

18. THIRD PARTY RIGHTS

The Contract is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract.

19. SEVERABILITY

If any provision under this Contract is or becomes unenforceable, such provision shall not take effect and shall be deemed to be severed from the remainder of the Contract to the extent that the remainder of the Contract and the unaffected part of the provision shall continue to be fully enforceable.

20. WAIVER

No delay or omission by the Purchaser in exercising any of its rights under the Contract shall constitute a waiver of that right and any partial exercise of any such right shall not prevent any future exercise of the right.

21. LAW AND JURISDICTION

The Contract and any dispute arising under or in any way connected with the subject matter of the Contract (whether of a contractual or tortious nature or otherwise) shall be governed by and interpreted in accordance with Laws of the State of New York, USA and the Parties submit to the jurisdiction of the New York courts, without regard to principles of conflict of law, as the same may be from time to time in effect, including without any limitations the Uniform Commercial Code as in effect in the State of New York.

22. ENTIRE AGREEMENT

The Contract is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of the agreement. The Contract supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposals, communications and agreements were oral or written, concerning the matters addressed in the Contract. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Contract.