

DOSCPSC01 - Purchasing Standard Conditions for the Purchase of Goods

1. DEFINITIONS

In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

1.1. "Company" means DeepOcean Subsea Cables Limited.

1.2. "Contract" means the agreement between the Company and the Seller comprising the Company's purchase order issued by the Company to the Seller, these conditions complete with any appendices and any other documents (or part thereof) specified therein.

In the event of inconsistency between the documents comprising the Contract, they shall have the precedence in the order herein listed above unless otherwise stated in the purchase order;

1.3. "Goods" means any goods agreed in the Contract to be purchased by the Company from the Seller (including any installments, component, parts or parts of them);

1.4. "Intellectual Property Rights" means any and all patents, trademarks, trade names, service marks, copyright (including all such rights in computer software and databases) moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any part of the world together with all or any goodwill relating thereto;

1.5. "Seller" means the person, firm or company which accepts the Company's purchase order.

2. APPLICATION OF TERMS

2.1. The Company's purchase order constitutes an offer by the Company to buy the Goods subject to these Conditions.

Any offer and/or acceptance of a purchase order by the Seller shall be deemed to constitute an agreement to comply with these Conditions.

2.2. The delivery of any Goods by or on behalf of the Seller shall also constitute the Seller's agreement to comply with these Conditions.

2.3. These Conditions are the only conditions upon which the Company is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.4. No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of purchase order, specification or any similar document given by the Seller to the Company will form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.

2.5. No variation to a purchase order or these Conditions shall be binding unless agreed in writing by an authorised representative of the Company.

3. SPECIFICATIONS QUALITY INSPECTION AND DEFECTS

3.1. The quantity and description of the Goods shall be specified in the Company's purchase order and/ or in any specification supplied.

3.2. The Goods shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Contract. If the purpose for which the Goods are required is made known to the Seller expressly or by implication, the Goods shall be fit for that purpose.

3.3. The Company's rights under these Conditions are in addition to the statutory conditions implied in favour of the Company by the Sale of Goods Act 1979.

3.4. The Company shall have the right to inspect and test the Goods at all times during manufacture, processing or storage prior to despatch, without relieving the Seller of its obligations.

3.5. If the result of such inspection or testing cause the Company to be of the opinion that the Goods do not conform or are unlikely to conform with the Contract or to any specifications and/or patterns supplied by the Company to the Seller, the Company shall inform the Seller within 7 days of inspection or testing and the Seller shall immediately take such action as is necessary to ensure conformity and in addition the Company shall have the right to require and witness further testing and inspection.

3.6. Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not

diminish or otherwise affect the Seller's obligations under the Contract.

3.7. The Seller shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by it, whether such information has been approved by the Company or not, provided that such errors or omissions are not due to inaccurate information furnished in writing by the Company.

3.8. Any specification produced or supplied by the Company to the Seller or specifically produced by the Seller for the Company in connection with the Contract, together with the copyright, design rights and any intellectual property rights (whether registered or unregistered) shall be the exclusive property of the Company.

3.9. Goods made to the Company's specification shall not be manufactured for or supplied to any other party.

3.10. The Seller shall comply with all applicable regulations and legal requirements concerning the manufacture, packaging, labelling, packing and delivery of the Goods.

3.11. Prior to despatch the Seller shall inspect and test the Goods for compliance with the purchase order and shall at the Company's request and at no extra cost supply the Company with certified copies of all test/inspection sheets.

3.12. The Goods shall be marked in accordance with the Company's instructions and any applicable regulations or requirements of the carrier and properly packed and secured so as to reach their destination in an undamaged condition.

3.13. If any of the Goods fails to comply with the provisions set out in this **Clause 3** the Company shall be entitled to terminate the Contract pursuant to **Clause 15**.

4. CHANGES

4.1. The Company may in its reasonable discretion from time to time change any details specified in its purchase order by written instructions. If any such change affects the time of performance or delivery or the costs involved, the Company shall make an equitable adjustment to the time of delivery and/or the price.

5. INDEMNITY AND INSURANCE

5.1. Except to the extent that the Seller's liability is limited by **Clause 5.2** hereunder the Seller shall keep the Company indemnified in full against all liabilities, losses, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company in connection with:

- (a) breach of any warranty relating to the Goods
- (b) any default or breach of the Contract;
- (c) defective workmanship, quality or materials;
- (d) any claim of an infringement or alleged infringement of any intellectual property rights of any other person caused by the use, manufacture or supply of the Goods except to the extent that the claim arises from compliance with the Company's specification ;
- (e) any act or omission of the Seller or its employees, agents or sub-contractors in supplying and delivering the Goods, including any injury, loss or damage to persons caused or contributed to by their negligence or by faulty design, workmanship or materials.
- (f) any claim made against the Company in respect of any breach or alleged breach by the Company of any statutory provision, regulation or other rule of law arising from the Seller's acts or omissions or those of the Seller's employees, agents or subcontractors.

5.2. The Seller shall not be liable for the Company's loss of profit or production resulting from any breach of the Contract by Seller.

5.3. The Seller shall take out and maintain all insurances sufficient to cover its liabilities and obligations under the Contract and which are required by applicable laws.

6. DELIVERY

6.1. The Goods shall be delivered to the address specified by the Company. The date of delivery of the Goods shall be that specified in the purchase order unless otherwise subsequently agreed in writing between the Seller and the Company. Where time of delivery is stated to be of the essence in the purchase order the Seller acknowledges that the date(s) of delivery specified are critical for the avoidance of substantial loss to the Company.

6.2. The Seller shall invoice the Company upon, but separately from, despatch of the Goods to the Company.

6.3. The Seller shall ensure that each delivery is accompanied by a delivery note which shows the purchase order number, date of purchase order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

6.4. Unless otherwise stipulated by the Company in the Contract, deliveries shall only be accepted by the Company in normal business hours.

6.5. If the Goods are not delivered on the due date or to the specified delivery point then, without prejudice to any other rights which it may have, the Company reserves the right to:

- 6.5.1. cancel the Contract in whole or in part;
- 6.5.2. refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
- 6.5.3. recover from the Seller any expenditure and costs reasonably incurred by the Company in obtaining the Goods in substitution from another supplier.

6.6. Where the delivery destination of Goods crosses national boundaries any trade terms stated in the Contract shall be interpreted in accordance with the current edition of INCOTERMS which shall be deemed to form part of the Contract.

6.7. Delivery or performance by installments is not accepted by the Company unless previously agreed in writing. If Goods are to be delivered by installments the Contract will be treated as a single contract and not severable.

7. INFORMATION

7.1. The Seller shall provide to the Company on delivery evidence of the place of origin of the Goods and information relating to components, parts or raw materials used in manufacturing the Goods.

7.2. The Seller shall provide to the Company all information as the Company requires to ensure that the Goods comply with, and that the Company fulfills its obligations under, all applicable legislation and industry codes of practice.

7.3. The Company reserves the right to amend any delivery instructions.

8. ACCEPTANCE

8.1. The Company shall be entitled to reject any Goods delivered which are not in accordance with the

Contract, and shall not be deemed to have accepted them until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect has become apparent.

8.2. The Company shall not be deemed to have accepted the Goods by virtue of having required the Seller to repair or replace the Goods under these Conditions.

9. VARIATION OF GOODS

The Seller shall not alter or otherwise vary the Goods without the written instruction of the Company. The Company reserves the right by notice in writing to modify Goods and any alteration in the agreed purchase price caused by such modification shall be agreed in writing between the Company and the Seller.

10. RISK/PROPERTY

10.1. Risk of damage to or loss of the Goods shall pass to the Company on delivery in accordance with the Contract.

10.2. Property in the Goods shall pass to the Company on delivery, or if earlier, when payment for the Goods is made.

10.3. Where the Company pays part of the agreed purchase price before taking delivery of the Goods or any part thereof then such payments shall be regarded as part payments and not deposits of the said agreed purchase price, and the property in any materials procured for or manufactured by the Seller for the purpose of the Contract, or otherwise appropriated to the Contract, shall pass to the Company from the date of such payments up to the total value thereof. The Goods shall remain at the risk of the Seller until delivery to the Company is complete when ownership of the Goods shall pass to the Company.

11. PRICE

11.1. The Company shall pay to the Seller the price which is stated in the purchase order. Unless stated otherwise in the purchase order the price shall be the price of the Goods fully delivered including all packaging, packing, trading, shipping, carriage, insurance and delivery. All packaging shall be considered non-returnable. Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net charge.

11.2. If the price is not stated in the purchase order, the price shall be the lowest price currently quoted or charged at the time of the purchase order by the Seller for the Goods but shall not, in any event, be higher than the price most recently charged to the Company by the Seller for such Goods.

11.3. The Company shall be entitled to any discount for prompt payment, bulk purchase, volume or purchase customarily granted by the Seller. The Seller shall immediately notify the Company of any increase in any credit period and/or rates of discount which the Seller extends to its customers.

12. PAYMENT

12.1. The Seller may only invoice the Company on or after delivery of the Goods. Unless otherwise stated in the Contract, payment of invoices will be effected at the end of the second month following the month in which the Company received a valid invoice.

12.2. Time of payment shall not be of the essence

12.3. The Goods shall not be deemed accepted and payment shall not be due until the Company has received from the Seller all agreed and properly approved Certification and Documentation information.

12.4. Invoices will not be accepted unless they quote the number of the Company's relevant purchase order. Invoices shall be sent to the address specified in the purchase order as the invoicing address. An invoice will not be paid by the Company if presented over three months after the supply of the Goods in question.

12.5. The Company shall be entitled to deduct from the price:

- (a) any amount which is disputed by the Company, pending resolution of such dispute; and
- (b) any sums owing by the Seller to the Company or any other company within the Seller's group under any contract.

13. CONFIDENTIALITY

13.1 The Seller shall not without the prior written consent of the Company, at any time during the continuance of this Agreement or at any time thereafter for any reason whatsoever disclose to any persons, or otherwise make use of, any confidential or secret information which may have come into its possession relating to the Company, its business and its customers.

14. INTELLECTUAL PROPERTY RIGHTS

14.1. Intellectual property rights in all drawings, specifications and data supplied by the Company to the Seller or not so supplied but used by the Seller specifically in the manufacture of the Goods shall at all times be and remain the exclusive property of the Company.

14.2. All designs, drawings and other technical information relating to the Goods, and the intellectual property rights therein, shall be and remain the Seller's property unless otherwise set out in the Contract.

14.3. The Company shall not have any liability in respect of any claims that the Goods infringe, or their importation, use or re-sale infringe, any Intellectual Property Rights of any other person except to the extent that the claim arises from compliance with any specification supplied by the Company. The Seller shall indemnify the Company against all losses, damages, expenses, losses or other liability arising from such claims.

15. TERMINATION

15.1. The Company shall be entitled to cancel the Contract in respect of all or part only of the Goods by giving notice at any time prior to delivery without incurring any liability to the Seller other than to pay for Goods already delivered at the time of such notice.

15.2. The Company may terminate the Contract without liability to the Seller and reserving all rights by giving notice to the Seller at any time where one or more of the following circumstances occur:

- (a) the Seller is in material breach of any of its obligations and that breach cannot be remedied;
- (b) the Seller is in material breach of any of its obligations and that breach can be remedied but the Seller fails to do so within 14 days starting on the day after receipt of notice from the Company;
- (c) the Seller commits more than one breach of any of its obligations and the cumulative effect of such breaches is that the Company reasonably believes that the Seller will continue to deliver a substandard performance in relation to a substantial portion of the Contract;
- (d) where the Goods are not accepted under the provisions of **clause 8** hereof.;
- (e) the Seller makes any voluntary arrangement with its creditors or become the subject of an

administration order or goes into liquidation or bankruptcy or an encumbrancer takes possession or a receiver is appointed, of any of its property or assets; or

(f) the Company reasonably believes that any of the events mentioned above is about to occur and the Company notifies the Seller accordingly.

15.3. If delivery is incomplete then the Company may accept or reject the Goods delivered and cancel or vary the balance of the Order.

16. WARRANTIES

16.1. The Seller warrants to the Company that the Seller is fully qualified, financed and organised to perform the Contract and that the Goods:

- (a) will be fit for any purpose held out by the Seller or made known to the Seller at the time the purchase order is placed;
- (b) will be of satisfactory quality and free from defects in design, material and workmanship for 12 months from putting into service, or, unless otherwise stated in the Contract, eighteen months from the date of delivery, whichever expires first;
- (c) will correspond with any relevant specification or sample;
- (d) where no specification or sample has been provided will meet the Company's performance criteria and conform to best industry practice; and
- (e) will comply with all statutory requirements, applicable regulations and EU regulations relating to the manufacture and sale of the Goods, product safety, packaging, labelling and delivery of the Goods and concerning hazardous substances (including the appropriate British Standard or equivalent specification unless otherwise agreed).

17. CERTAIN RIGHTS AND REMEDIES ON DEFAULT

17.1. Each of the Company's rights or remedies is without prejudice to any other right or remedy of the Company whether or not under the Contract.

17.2. The Seller shall, as soon as reasonably practicable at the Seller's expense, make good, repair or replace all Goods which are or become defective during the period of twelve months from putting into service, or, unless otherwise expressly stated in the Contract, eighteen months from delivery, whichever expires first, where such defects occur under proper usage and are due to faulty design, the Seller's erroneous instructions as to use or erroneous use data, or inadequate or faulty materials or workmanship, or

any other breach of the Seller's warranties express or implied. Repairs or replacements shall themselves be subject to the foregoing obligations for a period of twelve months from date of delivery after repair or replacement.

17.3. If any repair or replacement fails to be carried out by the Seller within 14 days of notification by the Company or such other time as may be agreed between the parties, the Company may carry out the repair or replacement, or have it carried out by a third party, at the Seller's expense. The Company may offset any costs so incurred against any outstanding price payments or if the aforesaid costs exceed any such outstanding payments the Seller shall pay the difference to the Company upon demand.

17.4. If any Goods are not supplied in accordance with the Contract then whether or not the Company has previously required the Seller to repair the Goods or to supply any replacement Goods, the Company shall be entitled to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the price already paid.

18. FORCE MAJEURE

Neither party shall be liable for failure to perform its obligations under the Contract if such failure results from circumstances which could not have been contemplated and which are beyond the party's reasonable control.

19. COMPLIANCE

19.1 Anti-Bribery

19.1.1 The Seller shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including the Bribery Act 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) have and shall maintain in place throughout the term of this Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the relevant requirements, and will enforce them where appropriate; and
- (d) promptly report to Company any request or demand for any undue financial or other advantage of any kind received by the Seller in connection with the Goods.

19.1.2 The Seller shall ensure that any person associated with the Seller who is performing services under or in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Seller, the relevant terms in clause 19.1.1. The Seller shall be responsible for the observance and performance by such persons of the relevant terms, and shall be directly liable to Company for any breach by such persons of any of the relevant terms. Any such breach shall be a material breach, and in the case of a breach of clauses 19.1.1(a) or 19.1.1(b) shall be a material breach that is incapable of remedy.

19.1.3 For the purpose of this clause 19.1, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with the Bribery Act 2010 (and any guidance issued under that Act). For the purposes of this clause 19.1, a person associated with the Seller includes any member of the Seller group.

19.2 Modern Slavery

19.2.1 The Seller undertakes, warrants and represents that:

- (a) neither it nor any of its officers, employees, agents or subcontractors:
 - (i) has committed an offence under the Modern Slavery Act 2015 (an “MSA Offence”); or
 - (ii) has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
 - (iii) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- (b) it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy; and
- (c) it shall notify Company immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Seller’s obligations under clause 19.3. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Seller’s obligations.

19.2.2 The Seller shall take all reasonable steps necessary to ensure:

- (a) its supply chain complies with the Modern Slavery Act 2015 and the modern slavery policy; and
- (b) it has the right to audit the supply chain to ensure such compliance.

19.2.3 The Seller shall prepare and deliver to Company no later than 28 February each year, an annual statement setting out the steps it has taken to ensure slavery and human trafficking is not taking place in any part of its business or in any of its supply chains.

19.3 Data Protection

19.3.1 Each party shall comply with Data Protection Law as may be applicable from time to time to the shared personal data and the provisions of this clause 19.3 shall not relieve the Seller of its own responsibilities under Data Protection Law.

19.3.2 Company shall provide the shared personal data to the Seller. The Seller shall process shared personal data only for the agreed purpose. The Seller shall not process shared personal data in a way that is incompatible with the agreed purpose.

19.3.3 Each party agrees that it shall:

- (a) assess the level of security appropriate to the processing in the context of its obligations under Data Protection Law; and
- (b) implement all such appropriate technical and organisational measures to protect against unauthorised or unlawful processing and against accidental loss, destruction or damage to shared personal data.

19.3.4 The Seller shall indemnify Company in full for any and all costs, losses, damages, expenses and liabilities suffered by Company as a result of the Seller’s failure to comply with the terms of this clause 19.3 and/or any Data Protection Law.

19.4 Material Breach

Any breach of clauses 19.1, 19.2, or 19.3 by the Seller shall be deemed a material breach of the Contract that is not capable of remedy and shall entitle Company to terminate the Contract with immediate effect

20. GENERAL

20.1. Purchase orders are personal to the Seller and the Seller shall not transfer, assign, charge, dispose of or deal in any manner or purport to do the same with any of the Seller’s rights or beneficial interests.

20.2. The Seller shall not sub-contract any of its obligations under the Contract without the prior written consent of the Company.

20.3. Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

20.4. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the remainder shall not be affected.

20.5. The Contract shall constitute the entire agreement between the parties in relation to the subject matter of the agreement and supersedes any previous agreements, representations and commitments, whether oral or in writing, between the parties concerning such subject matter.

20.6. No modifications, renewal, extension or waiver to or of the Contract or any of its provisions shall be effective unless agreed in writing by the Parties.

20.7. The Contract does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

21. APPLICABLE LAW

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the English courts.