

Oliver Crispin Robotics Ltd Standard Conditions of Purchase - March 2016

1) GENERAL

- a) Except where clause 23 applies these terms and conditions apply to every order placed by Oliver Crispin Robotics Ltd (OCR) with any individual, firm or company ("the Supplier").
- b) No terms or conditions in or attached to or purportedly incorporated by any catalogue, sales literature, document, quotation, invoice, tender, dispatch/delivery advice note of the Supplier or otherwise which are inconsistent with these terms and conditions or which purport to add to or vary them in any way, shall have any effect unless expressly accepted by OCR in writing.
- c) In the absence of acceptance by OCR of the Supplier's terms and/or conditions, the Supplier shall be deemed to have withdrawn or waived their terms or conditions and to contract solely on the basis of the terms contained within the document; and
- d) Acceptance of any goods and/or services shall not constitute or be deemed to constitute acceptance by OCR of the Supplier's terms or conditions. The contract shall commence and the Supplier will be contractually bound upon the despatch of a purchase order by OCR.

2) PRICE

The price to be paid for the goods and/or services is set out in the purchase order. No variation of such price shall be effective unless agreed in writing between the Supplier and OCR.

3) CONFORMITY TO PURCHASE ORDER

- a) The supplier warrants that the goods and/or services supplied or performed under the contract shall:
 - i. conform as to the quantity, type, sort, quality and description;
 - ii. be fit for the purpose made known to the Supplier expressly or by implication and in this respect OCR shall rely on the Supplier's skill and judgement;
 - iii. where materials and items are purchased, be new (unless otherwise specified in the purchase order) and of sound materials and skilled and careful workmanship;
 - iv. comply with any current legislation and standards specified and where no standard is specified, comply with the relevant British Standards or equivalent;
 - v. be free from design defects (except for any defects related to designs provided by OCR); and
 - vi. will be free from any encumbrance, lien or claim;
- b) If the goods and/or services do not comply, OCR is entitled, at its option, and at its sole discretion, to:
 - i. reject any goods (in whole or in part) and return them at the risk of the Supplier and at the Supplier's expense;
 - ii. reject any services (in whole or in part);
 - iii. reject any goods and/or services (in both instances in whole or in part) and require the Supplier to redeliver fresh goods complying with the requirements of the contract and/or re-perform the services;
 - iv. require the Supplier to refund any sums paid for the goods and/or services (in both cases in whole or in part) rejected; and/or
 - v. accept the whole or part of the goods and/or services supplied by the Supplier.
- c) The Supplier hereby warrants that it has good and marketable title to any goods provided or supplied. It further warrants it has ownership or a licence to utilise any intellectual property contained within the goods or services.

4) DELIVERY OF GOODS AND/OR PERFORMANCE OF SERVICES

- a) All goods and/or services ordered by OCR shall be delivered or performed at the cost of the Supplier.
- b) Failure to deliver the goods or perform the services on the date specified on the purchase order shall entitle OCR to cancel the contract without notice.
- c) On such cancellation OCR shall be entitled to repayment of any deposit paid and the Supplier shall lose any claim for damages and/or payment of the purchase price.

5) TITLE AND RISK

Title to and risk in any goods shall remain with the supplier and shall only pass to OCR on produced by OCR of a signed proof of delivery.

6) INVOICES, PAYMENT AND SET OFF

- a) Detailed priced invoices, which shall be valid VAT invoices, shall be sent to OCR at the address detailed on the purchase order. Invoices shall be sent immediately after the delivery of goods is made, or completion of the services, and shall bear OCR's purchase order number.

b) OCR shall make payment within 45 days of receipt of a valid invoice from the Supplier.

c) The parties agree that time for payment shall not be of the essence of the contract.

d) In the case of late payment, the Supplier shall be entitled to charge OCR simple interest at the rate of 2% above the Bank of England Base Rate for each day that payment remains outstanding. The parties hereby declare and agree that payment of such interest shall constitute a 'substantial remedy' for the purposes of the Late Payments of Commercial Debts (Interest) Act 1998.

e) OCR may set off against any sums due to the Supplier, whether under this contract or otherwise, any lawful set off or counterclaim to which OCR may at any time be entitled.

7) INDEMNITY AND INSURANCE

- a) The Supplier shall hold and keep OCR fully indemnified from, and against, all actions, costs, claims, demands, and liability whatsoever in respect of any injury or damage to persons or property due to, or arising out of, the performance of the contract or any breach by the Supplier of these terms and conditions or any terms or obligations implied by law or any other relevant statutory provision, as may be in force from time to time.
- b) The Supplier shall further indemnify OCR against any claim for breach or infringement of intellectual property rights brought by any third party in respect of the goods and/or services provided and/or supplied; and
- c) The Supplier shall at all times have in place sufficient insurance to cover any liability prescribed above, and shall provide written evidence of the same upon request.

8) TERMINATION

a) If at any time after the commencement of the contract the Supplier shall:

- i. In the case of an individual or any individual member of a partnership become unable to pay its debts within the meaning of section 268 of the Insolvency Act 1986, become the subject of a petition for a bankruptcy order, become the subject of an application for an interim order appointing a nominee, become the subject of a debt relief order, entering into an arrangement with its creditors or commit any act of bankruptcy;
- ii. In the case of a limited company or partnership (including a LLP), become unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, become the subject of a winding up petition or order or an application or order for the appointment of an administrator or receiver or manager, or call a meeting of its creditors;

then OCR shall be entitled to treat the contract as repudiated or wrongfully terminated by the Supplier in respect of any goods and/or services not already delivered and/or performed in accordance with the terms of the contract.

b) If the Supplier breaches any terms of this contract:

- i. If the breach is capable of remedy, OCR may give the Supplier notice of the breach and require the Supplier to remedy the same. If, within 30 days of such notice being given, the Supplier fails to remedy the breach or breaches complained of then OCR may give notice terminating the contract;
- ii. If any breach by the Supplier is incapable of remedy then OCR may give notice terminating the contract with immediate effect;
- iii. In either case, the Supplier shall not be entitled to any payment from OCR save for any goods and/or services which, at the time of the termination, have been delivered and/or performed in accordance with the provisions of this contract. Where only part of the goods or services have been supplied or provided, the Supplier shall only be entitled to a pro rata payment of the contract price calculated via reference to the percentage of the goods delivered or service provided; and

iv. In any case, upon termination following breach by the Supplier, OCR shall be entitled to recover from the Supplier (or to set-off against any sums due to the Supplier) the cost of obtaining the outstanding goods and/or services from an alternative source.

c) Except in case of termination by OCR for breach by the Supplier of the terms hereof, allowance will be made for normal and reasonable expenses incurred by the Supplier prior to receipt of notice of cancellation. OCR will not be liable for any charges or expenses incurred by the Supplier in advance of the normal or reasonable lead time necessary to meet scheduled delivery dates nor for any expenses, charges or liability incurred subsequent to the giving of notice of cancellation.

9) LIMITATION OF LIABILITY

- a) In the event that OCR is in breach of any of these terms and conditions, its liability to the Supplier shall be limited to the price payable for the goods and/or services in question under this contract; and
- b) OCR shall not be liable for any consequential losses or loss of profits sustained by the Supplier in so far as these sums exceed the contract price.

10) FORCE MAJEURE

Notwithstanding anything contained in these terms and conditions, neither OCR nor the Supplier shall be liable for any loss, damage, or expense suffered or incurred by the other party by reason of matters outside of its contract and that it (i.e. the first party) could not have reasonably prevented or avoided.

The matters deemed outside of a party's control shall include, but shall not be limited to: fire; flood, earthquake, or other natural disaster; tornado, typhoon, hurricane or other extreme weather event; accident, wars, strikes, lockouts, or any restriction or prohibition imposed by the Government or any duly authorised authority.

11) CONFIDENTIALITY

The Supplier shall treat all confidential information belonging to OCR as confidential and safeguard it accordingly; and shall not disclose any confidential information without the prior written consent of OCR. This shall also apply to drawings, specifications, or other documents prepared by the Supplier for OCR in connection with this Purchase Order.

For the purposes of this clause, 'confidential information' shall have the same definition as contained within OCR's standard Non-Disclosure Agreement as at the date of the relevant Purchase Order. A copy of the Non-Disclosure Agreement will be provided on request.

12) WAIVER

- a) No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this contract.
- b) Further, any individual decision by a party to waive their rights under this contract shall act in respect of that individual decision only and shall not be taken as a general waiver applicable in the same or similar circumstances.

13) AMENDMENT

This contract may not be varied except by an agreement in writing signed by the duly authorised representatives of the parties.

The duly authorised representative of OCR is the Managing Director from time to time or such other person as may be notified to the Supplier by the Managing Director.

14) CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Unless the right of enforcement is expressly granted, it is not intended that a third party should have a right to enforce a provision of this contract pursuant to the Contracts (Rights of Third Parties) Act 1999. The parties may rescind or vary this contract without the consent of a third party to whom an express right to enforce any of its terms has been provided.

15) SUB-CONTRACTING AND ASSIGNMENT OF LIABILITY

The Supplier shall not sub-contract, assign, or transfer this contract from OCR or the benefit of this contract to any third party except with the consent in writing of OCR.

16) ENFORCEABILITY

These terms and conditions create separate and independent obligations between the parties.

If any provision in this contract shall in whole or in part be held to any extent to be unlawful or unenforceable under any enactment or rule of law, then the provision or part thereof shall be treated as if struck through and the remainder of the provisions shall stand in full force and effect.

17) OBSERVANCE OF LAW AND REGULATIONS

- a) The Supplier shall comply with all statutes, orders, regulations or bye laws applicable to the performance of this contract, including health and safety, and shall indemnify OCR against any losses, claims or liabilities, expenses, proceedings or otherwise, as a result of the Supplier's non-compliance with the same.
- b) The Supplier shall further comply with all statutory and other requirements applicable to its business in performing work related to this purchase order.

18) NOTIFICATION OF HAZARDOUS SUBSTANCES

The Supplier warrants that the goods do not contain or constitute a hazardous or toxic substance or material, or in any way pose a danger to OCR or its officers, agents, employees or customers or to any other person or entity. The Supplier shall promptly notify OCR if it at any time discovers or concludes that the goods contain or constitute a hazardous or toxic substance or material or might otherwise constitute a threat to human health, welfare or the environment.

19) INDUCEMENTS

- a) The Supplier shall neither: induce any employee of OCR to make any concession to the Supplier, issue the order or alter any requirements of the order in return for any gift, money or other inducement.
- b) Pay money or give any benefit to any third party (either directly or indirectly) in connection with the negotiation and/or issue of the Purchase order; nor
- c) Encourage an employee of OCR to commit any act of dishonesty against the OCR which may benefit the employee or be a detriment to the OCR, or both.

20) NOTICES

Any notification by either party to the other under the contract shall be in writing, delivered by first class post, by e-mail to the other party at the address shown in the purchase order. All notices shall be deemed duly given on the day of posting or, if sent by e-mail, immediately when the notice is transmitted.

21) RESOLUTION OF DISPUTES

- a) In the event of a dispute arising between OCR and a Supplier about or in connection with the terms and/or performance and/or termination of the Contract then both parties shall endeavour to settle such dispute without recourse to litigation.
- b) Any party wishing to raise a dispute ("the Complainant") must give notice to the other ("the Respondent") of the fact of the dispute accompanied with brief particulars setting out: (i) the terms of the Contract relied upon; (ii) the way or ways in which such terms are said to have been breached; (iii) the effect of such breach; and (iv) the losses and/or expenses said to have been incurred as a result.
- c) On being served with such notice, the Respondent shall have 28 days to provide a response setting out brief particulars of its response in respect of items (i) to (iv) above.
- d) In the absence of such response within the initial 28 day period, the Complainant may give 28 days' notice of their intention to issue legal proceedings. If no response is received within this further 28 day period then the Complainant shall be at liberty to issue legal proceedings without further notice to the Respondent. If a response is provided either within the initial or further 28 day period then the following provisions shall apply:
 - i. The parties shall have a period of [3] months of service of the Respondent's response to negotiate a resolution to their dispute;
 - ii. If the parties are unable to agree a resolution of the dispute within this [3] month period then they shall jointly agree the appointment of a neutral mediator to whom the dispute shall be referred. In the absence of agreement the parties shall ask the chair of the Bar Council of England and Wales to nominate a suitably qualified Barrister of at least 10 years call to act as mediator;
 - iii. The costs of the mediator shall in the first instance be borne jointly by the parties;
 - iv. The parties shall each use their best endeavours to provide the mediator with any information that the mediator reasonably require to assist with the resolution of the dispute; and
 - v. Any decisions as to the venue, process or procedure to be followed will be for the mediatory/adjudicator to decide.
- e) In any case, including one in which no response is provided, the Complainant shall not be at liberty to issue legal proceedings until it has first made a *bona fide* offer of settlement.

22) PROPER LAW

This contract and the terms and conditions shall be subject to and construed in accordance with the law of English and Wales and the parties submit to the jurisdiction of the English Courts in relation to all issues.

23) TERMS AND CONDITIONS SPECIFIED UNDER A TENDER OR QUOTATION EXERCISE OR OTHER CONTRACT WILL OVERRIDE THESE TERMS AND CONDITIONS

These terms and conditions will apply unless OCR specifies different terms and conditions in its tender or quotation documentation. If different terms and conditions are specified by OCR those terms and conditions will override these purchase order terms and conditions and will apply instead of these.

24) ENTIRE AGREEMENT AND NON-RELIANCE UPON REPRESENTATIONS

- a) The parties accept and agree that the contents of this Purchase Order and these terms and conditions constitute the entire agreement between the parties and that they supersede and previous agreement or understanding reached.
- b) The Supplier warrants that in entering into the contract and agreeing these terms and conditions it is not acting in reliance upon any representation or collateral warranty given by OCR.

25) SEVERABILITY

- a) These terms and conditions create separate and independent obligations between the parties; and
- b) If any provision in this contract shall in whole or in part be held to any extent to be unlawful or unenforceable under any enactment or rule of law, then the provision or part thereof shall be treated as if struck through and the remainder of the provisions shall stand in full force and effect.

26) MEANING AND INTERPRETATION

The headings and numbering used in these terms and conditions are for convenience only and shall not affect their legal effect or interpretation.