



## DEFINITIONS

In these General Conditions the following terms shall have the meaning set forth below.

**"Buyer"** means any person firm company or legal entity who has entered into a Contract with the Seller for purchase and supply of Deliverables.

**"Contract"** means an agreement entered into by the Buyer and the Seller for sale and supply of Deliverables, including the Seller's order confirmation, these General Conditions, any agreed specifications or any other agreement made in writing by the parties in relation to the Deliverables.

**"Deliverables"** shall mean the Goods and/or the Services, as applicable.

**"Goods"** shall mean the goods sold and/or delivered by the Seller to the Buyer under the Contract.

**"Production Part"** shall mean any Goods which has been signed-off for manufacture after Design Verification and Process Verification testing.

**"Prototype Part"** shall mean any Goods which is not a Production Part.

**"Seller"** shall mean Danecca Limited, a company registered in England under 08041334 of Unit 5 Silverstone Park, Silverstone, NN12 8GX and includes all employees and agents of Danecca Limited.

**"Services"** means engineering, prototyping, testing, packing, storage and logistics services as well as any other services agreed between the parties to be sold and provided by the Seller to the Buyer under the Contract.

## APPLICABILITY

1. These General Conditions shall apply on all sales and supplies of Deliverables by the Seller to the Buyer. Deviations from these General Conditions shall not apply unless agreed specifically in writing by authorised representative of the Seller.

## ORDERS

2. No Contract shall be considered as entered into until an order confirmation has been provided from the Seller to the Buyer. If the Buyer does not accept the order confirmation it must immediately notify the Seller thereof in writing. If no such notification is given by the Buyer within two (2) business days, the Buyer is bound by the price and other conditions contained in the Seller's order confirmation.
3. Orders by the Buyer for Deliverables may not be subject to cancellations or changes without the Seller's written consent. The Seller reserves the right to charge the Buyer for any costs and expenses incurred in relation to cancellations or changes of orders requested by the Buyer.

## DELIVERY OF GOODS

4. The Buyer shall with due care make a customary inspection of the Goods upon delivery and notify the Seller in writing of any defects or shortcomings immediately and in no case later than five (5) business days after the delivery of the Goods. The notice shall contain a description of how the defect manifests itself. If the Buyer fails to notify the Seller of defects or shortcomings, which should reasonably have been discovered through customary inspection, in writing and within the above time limits, it loses its right to make any claim towards the Seller in respect of the defects or shortcomings.
5. Where a delivery term has been agreed in the Contract in relation to delivery of Goods, it shall be interpreted in accordance with the INCOTERMS in force at the formation of the Contract. If no trade term is specifically agreed, the delivery term shall be EXW (defined INCOTERMS 2012, as amended) to the place specified in the Seller's order confirmation.



6. Unless otherwise agreed in writing, the lead time stated in the Contract for delivery of Goods shall be taken as commencing on the date of the Contract. The date of delivery shall be taken as the date on which the Goods, according to the agreed delivery term, are to be regarded as handed over.

## PROVISION OF SERVICES

7. The Seller undertakes to provide the Services specified in the Contract during the service term and pursuant to the other terms and conditions set forth in the Contract.
8. The Seller shall use its reasonable endeavours to complete its obligations under the Contract, but time will not be of the essence in the performance of such obligations.
9. In case the Services include storage of property of the Seller on the Buyer's premises to which the Buyer shall have access, the Buyer is not entitled to make any modifications to the property of the Seller.
10. Such employees, representatives, agents, contractors etc. of the Buyer, as agreed in writing with the Seller at least five business days prior to the visit, ("Permitted Visitors") will during normal business hours of the Seller be permitted access to relevant facilities on the Seller's premises in relation to the provision of the Services. The Buyer shall procure that the Permitted Visitors undertake to at all times comply with the Seller's instructions.
11. In case Services are to be provided by the Seller at the Buyer's or a third party's premises, such employees, representatives, agents, contractors etc. of the Seller, as notified to the Buyer, shall be permitted access at the agreed time and place to relevant facilities at the Buyer's or third party's premises for the purpose of providing the Services. The Buyer is responsible for securing that such premises fulfill the requirements necessary

for the provisions of the Services and otherwise comply with all applicable laws and regulations, including but not limited to work environment. Delay in providing the necessary requirements from the Buyer will be subject to reasonable compensation to the Seller.

12. Following the expiration or termination of the service term the Seller shall have no obligations towards the Buyer in relation to the provided Services.
13. Subject to clause 43, in case the Seller fails to carry out the Services in accordance with the Contract and does not remedy such failure within thirty (30) business days following the Buyer's written notice to the Seller specifying the failure in reasonable detail, the Seller undertakes, as exclusive and only remedy, to compensate the Buyer for direct damages it has suffered due to the failure, provided that the failure is not solely of a minor significance to the Buyer.
14. For the avoidance of doubt, the Seller has no liability for failure in providing the Services (including delay in delivery) to the extent the failure is directly or indirectly attributable to the Buyer (including its employees and representatives) or any third party engaged by the Buyer.
15. The Buyer agrees to defend, indemnify and hold harmless the Seller and its employees and representatives from and against any and all claims, loss, damage, cost or expense resulting from breach of or other non-compliance with applicable rules and regulations, the Seller's instructions in relation to Deliverables, or the general misuse of any Deliverables, including but not limited to, death, personal injury, bodily injury and damage to property and the environment.

## PRICE

16. The applicable prices for the Deliverables are set forth in the Contract. All prices are net taxes, VAT,



customs duties and other similar levies or costs, unless otherwise provided in the agreed delivery term or set forth in the Contract.

17. The Seller reserves the right, by giving written notice to the Buyer at any time before delivery or provision, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and Services which are requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

## **PAYMENT**

18. The Seller shall invoice the Buyer for the price of the Goods and Services on or at any time after delivery of the Goods and/or the Provision of the Services (as applicable), unless, in the case of Goods, the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
19. Payment terms: thirty (30) days net from the date of invoice.
20. Delayed payment shall carry penalty interest with 2% above the Bank of England Base Rate per month on any outstanding amount.
21. If the Buyer fails to pay by the due date, the Seller may suspend further performance of its contractual obligations until full payment of all outstanding invoices are made. If the Buyer has failed

to pay the amount due within 60 days after the due date, the Seller may terminate the Contract by giving written notice to the Buyer. The Seller shall furthermore be entitled to full payment for the Deliverables even if it has not been delivered in full and, in addition, to interest on late payment as well as to claim compensation for all the losses suffered.

## **RETENTION OF TITLE**

22. The Goods shall remain the property of the Seller until paid for in full, to the extent that such retention of title is legally valid.

## **ASSIGNMENT**

23. The Seller may assign the Contract or any part of it to any person, firm or company without the prior consent of the Buyer.
24. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

## **INTELLECTUAL PROPERTY**

25. The intellectual property entailed in or related to the Deliverables shall at all times be the property of the Seller. Consequently, nothing in the Contract shall be construed as transferring any intellectual property in connection with the sale and delivery of the Deliverables. Consequently, the intellectual property entailed in the goods or in the solutions provided by the Seller will never form part of a Contract and will thus always remain the sole property of the Seller, unless so expressly agreed in each individual case and the Buyer has paid separately and specifically for the specific intellectual property.



## **DELAYED DELIVERY OF DELIVERABLES**

26. If the Seller finds that it will not be able to meet the agreed delivery date in relation to the delivery of Deliverables it shall notify the Buyer thereof in writing, stating the cause of the delay and indicating the date on which it expects to be able to deliver.
27. Should a delivery or part-delivery of Deliverables be delayed because the Seller has materially neglected its obligations to begin work or to take other steps within such a time that it can effect delivery of the Deliverables by the due date, the Buyer shall be entitled to cancel the Contract upon giving written notice thereof to the Seller, although such cancellation may be resorted to only if the delay is of material significance to the Buyer and the Seller has realised or should have realised this. The Buyer may, regardless of the cause of the delay, not cancel a Contract if it has not objected to a prolonged delivery time upon receiving notice from the Seller in accordance with clause 26. If the Buyer has raised such objection, the Seller shall have reasonable time to deliver.
28. If the Buyer does not take delivery of the Goods on the agreed delivery date, the Buyer is liable for every cost, loss and expense incurred by the Seller as if the Goods in question had been delivered. The Seller shall, if the Goods is still in the hands of the Seller, arrange for the Goods to be stored at the Buyer's risk and expense. The Seller may also, at its sole discretion, terminate the Contract and/or claim damages for cost, loss and expense suffered in relation hereto.
29. The Seller undertakes to deliver the Goods in the condition agreed to between the parties.
30. Prototype Parts might include deviations in design, materials, workmanship and/or performance in relation to the specifications of the Production Parts for which the Seller assumes no liability in Prototype Parts.
31. The Seller undertakes to deliver Production Parts free from faulty design, materials and workmanship in relation to the specifications of the Production Parts.
32. The Production Parts shall be regarded as defective if not in compliance with clause 31. In case of defective Production Parts the Seller shall remedy the defect by way of (at the Seller's choice) either repairing or replacing the Production Parts at the Seller's own cost or by refunding the purchase price paid to the Seller for such defective Production Parts.
33. The Seller shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Seller's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Seller's prior approval, or any other act or omission on the part of the Buyer, its employees or agents or any third party.
34. The Seller's liability for defects does not cover defects caused by circumstances, which arise after the risk has passed to the Buyer, nor does it cover normal wear and tear or deterioration. Furthermore, the Seller's liability does not cover defects due to mishandling, misuse or otherwise attributable to the Buyer or third parties.
35. The Seller's liability is limited to defects which appear within a period of three (3) months from the date of delivery of the Goods, unless the Goods is intended to be used within a shorter period of time in which case the liability is limited to defects which appear within the intended period of use. For parts of the Goods, which have been repaired or replaced under clause 32, the Seller

## **LIABILITY FOR DEFECTS IN GOODS**

29. The Seller undertakes to deliver the Goods in the condition agreed to between the parties.



shall have the same liability for defects as for the original Goods for a period of three (3) months. For other parts of the Goods, the liability period referred to in the first sentence of this clause shall be extended only by the period during which the Goods could not be used due to a defect for which the Seller is liable. Regardless of the provisions of clauses 32- 39, the Seller shall have no liability for defects in any part of the Goods or any claim, cost, damage or expense related thereto for more than two (2) years from the original delivery date. In addition, the Seller shall have no liability what so ever for any defects in any Goods or any claim, cost, damage or expense related thereto (i) if Goods is used outside of its specification and/or usage guidelines, (ii) if Goods in any way or part is used for or in applications for which the Goods is not originally intended, or (iii) the Goods in any other way is used in breach of the Seller's instructions or for any other purpose than the Goods was originally delivered for.

36. After receipt of a written notice under clause 4 for Production Parts, the Seller shall remedy the defect without undue delay. The Seller shall bear the costs as specified in clauses 32- 39. Remedial work shall be carried out at a location of the Seller's choice. If the Buyer gives such notice as referred to in clause 4, and no defect is found for which the Seller is liable, the Seller shall be entitled to compensation for work and costs incurred as a result of the notice.
37. If remedy of the defect in the Goods requires intervention in other equipment than the Goods, the Buyer shall be responsible for any work or costs caused thereby.
38. All packaging, packing and transports in connection with repair or replacement of Goods shall be at the Buyer's risk and expense. The Buyer shall follow the Seller's instructions regarding how the transport shall be carried out.
39. No Goods may be returned to the Seller without

the prior agreement in writing of the Seller.

40. The Seller shall have no liability for defects save as expressly set forth in clauses 32- 39.

## **LIMITATION OF LIABILITY**

41. The Seller shall have no liability for damage to property or physical persons caused by any Deliverable. If a third party lodges a claim for compensation against the Seller or the Buyer for loss or damage referred to in this clause, the other party shall forthwith be notified thereof in writing.
42. It is acknowledged and agreed that the representations and warranties set forth in these General Conditions in relation to the sale and supply of the Deliverables are exclusive and in lieu of all warranties of quality and performance, written, oral or implied, whether in contract tort, negligence, strict liability or otherwise. All other representations or warranties, including but not limited to any future performance warranties and any implied warranties of merchantability and fitness for a particular purpose, are hereby disclaimed.
43. In no event shall the Seller be liable for any consequential or indirect damages, including, but not limited to, costs for third parties (e.g. end customers), loss of profit, loss of goodwill, cost of capital and costs incurred in connection with substitute sources of supply. Furthermore, in no event shall the aggregate liabilities of the Seller exceed the purchase price actually paid by the Buyer to the Seller with respect to the Deliverables in question.

## **GROUND FOR RELIEF (FORCE MAJEURE)**

44. The following circumstances shall constitute grounds for relief if they impede the performance of the Contract or makes performance



unreasonably onerous and could not reasonably be foreseen: industrial disputes and any other circumstance beyond the control of the parties, such as fire, war, mobilisation or military call up of a comparable scope, requisition, seizure, trade and currency restrictions, insurrection and civil commotion, pandemics, shortage of transport, general shortage of materials, restrictions in the supply of power and defects or delays in deliveries by subcontractors caused by any such circumstance as referred to in this clause.

45. The party wishing to claim relief under clause 44 shall without delay notify the other party in writing on the intervention and on the cessation of such circumstance. If grounds for relief prevent the Buyer from fulfilling its obligations, the Buyer shall reimburse the expenses incurred by the Seller in securing and protecting the Goods.
46. Notwithstanding other provisions of these General Conditions, either party shall be entitled to terminate the Contract by notice in writing to the other party, if performance of the Contract is delayed more than twelve months by reason of any grounds for relief as described in clause 44.

## **CONFIDENTIALITY**

47. All information exchanged or otherwise transferred between the parties during the term of the Contract shall be treated as confidential, not be disclosed to any third parties, subject to clause 48 and only used for the purposes of the Contract.
48. The parties may disclose any Confidential Information to sub-contractors, suppliers, governmental or other authority or regulatory body to such extent only as is necessary for the fulfilment of the Contract, or as required by law.
49. The provisions of clauses 47-48 shall continue in force for five (5) years after the term of the Contract notwithstanding the termination of the Contract for any reason.

## **WAIVER**

50. The parties agree that no failure by either Party to enforce the performance of any provision in these General Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

## **SEVERANCE**

51. The parties agree that, in the event that one or more of the provisions of these General Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these General Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

## **THIRD PARTY RIGHTS**

52. A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **DISPUTES, APPLICABLE LAW**

53. Disputes arising out of or in connection with the Contract shall not be brought before the court, but shall be finally settled by arbitration in accordance with the law on arbitration applicable in United Kingdom.
54. All disputes arising out of the Contract and that cannot be settled by arbitration shall be judged according to the laws of England, and parties hereby submit to the jurisdiction of the English Courts.



## DATA PROTECTION

55. Data subject to data protection laws may be provided by the Buyer to the Seller and will in such case be processed by the Seller in order to manage the existing business relationship between the Buyer and the Seller, to provide the Deliverables and related products and services, and for administrative and marketing purposes. The Seller shall only process the data in accordance with applicable law. Upon written request the Seller will correct any data that is incorrect, incomplete or misleading. The Seller will also, once per year and free of charge upon written request, give information on what personal data that is processed about the requesting registered company or person.
56. Should the Seller under applicable law be considered as a personal data processor on behalf of the Buyer, the Seller undertakes to take appropriate technical and organisational measures to protect the data as required by applicable law.