

SCHEDULING AGREEMENT

GENERAL TERMS AND CONDITIONS



Rolls-Royce

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| Scheduling Agreement | 5500000772 |
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1.0 FORMATION AND CONTENT OF CONTRACT

- 1.1 The Contract consists of and the order of precedence is:
The Purchase Order ('Order') including any Specials Conditions referred to in it.
These General Terms and Conditions, unless a Framework Agreement or a Long Term Agreement exists between Buyer and Vendor, in which case it will replace these General Terms and Conditions.
The Specification(s) referred to in the Order.
- 1.2 Vendor will be deemed to have accepted the Contract upon receipt unless Vendor advises Buyer otherwise in writing within 5 business days from receipt of Buyer's Order.

2.0 INSPECTION AND TESTING

- 2.1 Vendor will allow Buyer to inspect and witness test the goods during manufacture, processing or storage at any reasonable time and will provide Buyer with all facilities reasonably required for inspection and testing. If after inspection or testing Buyer is not satisfied that the goods will comply in all respects with the Contract and so informs Vendor, Vendor must immediately take all steps necessary to ensure compliance. If additional inspection or testing is required, Vendor will bear all costs, including Buyer's costs for the additional inspection and/or witness testing.
- 2.2 Inspection and testing under this Clause 2 does not relieve Vendor of any liability or imply Buyer's acceptance of the goods or services.

3.0 TITLE AND RISK

- 3.1 Title to the goods passes to Buyer on delivery as specified in the Order and in compliance with the Contract.
- 3.2 Risk in goods delivered according to the Contract passes to Buyer on delivery at the delivery point specified in the Order.
- 3.3 Goods provided by Buyer but in Vendor's custody for any purpose must be clearly marked and recorded by Vendor as belonging to Buyer and will be at Vendor's risk.

4.0 DELIVERY DATE AND POSTPONEMENT OF DELIVERY

- 4.1 Time is of the essence under this Contract. The delivery date, date of completion of the services or, in the case of services performed at regular intervals, the period of the Contract, will be that specified in the Order. Vendor must furnish programs of manufacture and delivery that Buyer reasonably requires. If the Contract includes tests on the goods after their receipt by Buyer, then delivery will not be complete until the tests have been passed to the unconditional satisfaction of Buyer.
- 4.2 Vendor must notify Buyer if any delivery or performance is likely to be delayed beyond the Contract delivery date(s). If delivery or performance is delayed beyond the Contract delivery date(s), Buyer may (i) demand that Vendor provide for expedited delivery, with costs borne by Vendor, and (ii) claim liquidated damages, which will accrue at the rate of 1% per week or part thereof to a maximum of 10% of the Contract price (which will then be Buyer's sole remedy for delay, though not for defects).
- 4.3 Buyer may by written notice to Vendor at any time before delivery of the goods under Clause 4.1 postpone delivery of all or some of the goods. Vendor must thereafter from the time the goods are due and ready for delivery (a) store the goods or cause them to be stored; (b) give written notice to Buyer stating where the goods are stored and on what terms; and (c) take all reasonable steps to safeguard the goods and prevent their deterioration.
- 4.4 Buyer will be liable to Vendor for demonstrable reasonable costs to store the goods, including the cost of any insurance effected on the goods for the benefit of Buyer, and Vendor will hold any Insurance monies it receives in respect of the goods in trust for Buyer.
- 4.5 Buyer will notify Vendor if Buyer considers that the rate of progress is too slow to meet the Contract delivery date(s). Following receipt of such notice Vendor must immediately take all necessary steps at Vendor's cost to remedy the likely delay and advise Buyer accordingly.

5.0 CONFORMANCE AND QUALITY ASSURANCE

- 5.1 Vendor warrants that goods and services will conform to the requirements of the Contract, will be free of defects in design material or workmanship, and will be fit for any purpose of which Vendor is or should be reasonably aware. The goods must be made or services performed according to good engineering practice and all applicable standards and laws. Goods must be delivered with all instructions, warnings and data necessary for safe and proper operation. Goods or services that do not conform with any of the above will be deemed to be defective.
- 5.2 If for any reason Vendor is uncertain whether the goods or services will conform with any of the above, it must promptly and before despatch inform Buyer in writing with full details of the possible non-conformance. If Buyer determines that the goods or services will be non-conformant, Buyer may reject the non-conformance and require Vendor to immediately take all necessary action to correct the non-conformance, or accept the non-conformance and recover from Vendor any costs incurred by Buyer by so accepting.
- 5.3 Vendor must have in force and maintain throughout its performance of the Contract an accredited quality assurance system and will allow Buyer, or any representative of Buyer to inspect Vendor's quality assurance documents and procedures, at any of Vendors premises, upon reasonable notice.

6.0 VARIATIONS

- 6.1 Vendor will accept any reasonable variation in scope, specification, quantity or delivery requested by Buyer. The Contract price will be adjusted to reflect the variation having regard to the rates and prices used in the Contract or, where these are not relevant, to what is fair and reasonable.
- 6.2 Neither party will be bound by any Contract variation until Buyer confirms it by an official amendment to the Order.

7.0 PRICE AND PAYMENT

- 7.1 If Buyer has issued no variation in scope, Specification, quantity, delivery, the prices stated on the Order are fixed and firm and not subject to escalation for the duration of the Contract.
- 7.2 Unless otherwise stated In the Order, the Contract Price includes the costs of delivery in accordance with the Incoterm stated in the Order.
- 7.3 Unless otherwise stated in writing, Buyer will pay for services performed according to the Contract or for delivery of compliant goods together with all documentation required under the Contract within 60 days from the end of the month in which an acceptable invoice was submitted.
- 7.4 Buyer may deduct from any payments otherwise due to Vendor any reasonable and good faith estimate of losses or damages that Buyer is likely to suffer due to any breach of Contract by Vendor. If any later assessment of the loss or damage requires a repayment to Vendor, repayment will bear no interest and its previous deduction will not be a breach of Contract by Buyer.

8.0 REJECTION AND REMEDY OF DEFECTS

- 8.1 Buyer may reject any goods delivered that do not comply with the Contract and Buyer will not be deemed to have accepted any goods until it has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defects in the goods have become apparent, without prejudice to which Buyer may in any event reject the goods or services if they are defective. Vendor, at its own cost, must promptly collect rejected goods. Upon rejection of any goods or services, Buyer may require Vendor to replace them within a time stipulated by Buyer or terminate the Contract without prejudice to its other rights and remedies.
- 8.2 Without prejudice to any other rights of Buyer, Vendor must at its own expense upon request by Buyer promptly repair or replace any goods that are discovered to be defective within 24 months after delivery or 18 months after first commercial use, whichever occurs first. Repairs and replacements are subject to the foregoing obligations from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair or replacement.
- 8.3 If Vendor fails within a reasonable time to remedy any defect as above provided, Vendor must return any money paid by Buyer for the defective items and Buyer may terminate the Contract without prejudice to its other rights and remedies.

9.0 INTELLECTUAL PROPERTY RIGHTS

- 9.1 All information and know-how including drawings, specifications and other data provided by Buyer in connection with the Contract remain at all times Buyer's property and may be used by Vendor only to perform the Contract. Vendor must keep the information and know-how confidential and return them to Buyer upon request.
- 9.2 Vendor indemnifies and will defend Buyer (except for designs provided by Buyer) against all claims arising from infringement of intellectual property rights in relation to the goods or services that are the subject of the Contract.
- 9.3 Vendor may neither quote nor supply parts made with Buyer's tools or materials or made to Buyer's patterns, drawings, specifications or designs, to any third party without Buyer's prior written consent.
- 9.4 Any inventions, patents, copyrights, design rights and other intellectual property rights arising from the execution of the Order (including those paid for by Vendor) are the property of Buyer, and Vendor must not disclose the same to any third party. Vendor must do all things and execute any documents necessary to assign the property to Buyer.

10.0 FORCE MAJEURE

- 10.1 If a party's performance of its obligations under the Contract is delayed by a Force Majeure event, the time for performance will be amended accordingly but the delayed party must promptly inform the other of the event and take all reasonable steps to reduce the delay. Force Majeure means any event beyond the reasonable control of a party, and which it could not have reasonably foreseen and prevented (such as act of God, act or omission of government, war or terrorism, but excluding acts, defaults or omissions of its sub-contractor or supplier).

11.0 TERMINATION

- 11.1 Buyer may terminate the Contract without prejudice to any other of its rights and without liability to Vendor if:
- 11.1.1 Vendor's performance or delivery is delayed for 30 days or more (whether by Force Majeure or otherwise).
- 11.1.2 Vendor fails to comply with any delivery dates and thereafter fails to comply with a notice by Buyer calling for immediate delivery.
- 11.1.3 Vendor fails to deliver by the date that the maximum of any liquidated damages specified in the Contract has been incurred.
- 11.2 Either party may terminate the Contract if the other party becomes bankrupt or insolvent or makes an arrangement with its creditors or has a receiver or administrator appointed or commences to be wound up or if the other party reasonably apprehends that any of the above is about to occur.
- 11.3 Buyer may terminate the Contract if any related contract between Buyer and a third party is terminated for whatever reason. In such event Buyer will compensate Vendor for demonstrable costs reasonably and properly incurred until termination, subject to Vendor taking all reasonable steps to minimise the costs and subject to reasonable proof being provided. Compensation will not in any event exceed the Contract price. The remedies in this Clause 11.3 are Vendor's sole remedies for any termination under this Clause.

- 11.4 Buyer may terminate the Contract in whole or in part for any other material breach by Vendor.

12.0 LIABILITY FOR ACCIDENTS AND DAMAGE

- 12.1 Vendor at all times during and after performance of the Contract indemnifies and will defend Buyer against:
- 12.1.1 all loss or damage to property, and all claims and expenses in connection therewith, caused by the acts or omissions of Vendor, its sub-contractors, employees and agents and
- 12.1.2 liability for death and personal injury, and all claims and expenses in connection therewith, caused by Vendor, its sub-contractors, employees and agents.
- 12.2 Except for the payment of liquidated damages specified in the Contract neither party will have any liability whatsoever to the other (whether by way of indemnity or otherwise) for the other's loss of profit, production, business or revenues arising from any breach of Contract, negligence, breach of statutory duty or otherwise.
- 12.3 Vendor must obtain and maintain in force suitable public and products liability insurance against its liabilities under this clause and allow Buyer to inspect the insurance policies at all reasonable times.

13.0 HAZARDOUS GOODS

- 13.1 If any of the goods contain any hazardous substances or require any special precautions to ensure safety in handling, transport, storage or use, Vendor must before delivery furnish to Buyer written details of the nature of those substances and the precautions to be taken, and must ensure that before dispatch appropriate instructions

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- and warnings are clearly and prominently marked on the goods or securely attached to them and on any containers into which they are packed.
- 13.2 Vendor must provide to Buyer in writing all data, instructions and warnings required to comply with applicable laws relating to health and safety, and Vendor indemnifies and will defend Buyer against any and all liabilities, claims and expenses that arise as a result of Vendor's failure to do so.
- 14.0 ASSIGNMENT**
- 14.1 Vendor may not assign or subcontract the Contract or any of Vendor's obligations under it, in whole or in part, without Buyer's prior written approval, which will not be unreasonably withheld, but this clause does not apply to subcontracts for materials, minor details, or any part for which the subcontractor is named in the Contract. Vendor is responsible for all work done and goods supplied by all its subcontractors.
- 15.0 CHOICE OF LAW AND LAW**
- 15.1 This Contract will be governed by the laws of Ohio and subject to the exclusive jurisdiction of the state and federal courts in the state of Ohio and any hearings will be conducted in the English language.
- 16.0 TAXES**
- 16.1 Buyer may deduct from payments owed to Vendor any taxes or similar charges if Vendor fails to provide Buyer with proper certification of exemption from the deductions.
- 17.0 NOTICES**
- 17.1 All notices sent in connection with the Contract must be in writing and delivered by post, facsimile transmission, or by hand, overnight or courier service to the receiving party's address on the Order. Notice is effective when received.
- 18.0 WAIVER**
- 18.1 Any waiver by Buyer (whether with or without knowledge, and whether in whole or in part) of any term of this Contract will not constitute a precedent, nor restrict Buyer's rights in respect of any succeeding breach of the same or any other term of the Contract.
- 19.0 PRICE GUARANTEE**
- 19.1 Vendor warrants that the Contract price is the lowest price at the date of the Contract for the sale of the goods or services for the term of the Contract. If, during the term of the Contract, the Contract price is greater than those prices determined by the application of pricing models, parametrics, or benchmarking techniques, Buyer will notify Vendor accordingly who will reduce the Contract price to a comparable level. If Vendor is unable or unwilling to so reduce the Contract price, Buyer may after giving due notice to Vendor remove the affected goods or services from the Order.
- 20.0 CERTIFICATION OF POINT OF ORIGIN**
- 20.1 If requested by Buyer, Vendor must provide any Certification of Point of Origin required for compliance with any US export laws or regulations.