



## WAGGENER EDSTROM WORLDWIDE LTD. PURCHASE ORDER TERMS AND CONDITIONS

**SCOPE.** The terms and conditions set forth below together with those appearing on the face of this purchase order or on any exhibits attached hereto (collectively, the "Order") constitute the complete and exclusive agreement between Waggener Edstrom Worldwide Ltd ("We.") and the vendor identified on the face of this Order ("Vendor") with respect to the goods or services to be provided hereunder. The terms and conditions of this Order take precedence over any additional or different terms and conditions of Vendor which may be contained in Vendor's quotation or acknowledgement to which objection is hereby made by We. Acceptance of this Order by Vendor shall be binding on either party unless in writing and signed by an authorized representative of each party.

**PRICES.** Vendor shall sell to We. the goods ("Goods") or services ("Services") shown on the face of this Order at the prices specified. Such prices are firm for the delivery period shown and are exclusive of taxes (including VAT), shipping and insurance. If charges for taxes, shipping and insurance are applicable, they shall be separately stated on Vendor's invoice. Vendor warrants that each price for Goods or Services is no less favourable than that extended during the term of this Order to any other customer for the same or like items in equal or lesser quantities on similar terms and conditions.

**PACKAGING.** Unless specified on the face of this Order, no charge shall be made by Vendor for packaging, marking or storage. All Goods shall be packaged, marked, and otherwise prepared in accordance with (i) all applicable laws and regulations; and (ii) good commercial practices or We.'s specifications. Vendor shall be responsible for any loss or damage due to its failure to properly preserve, package, handle, or pack the Goods. We. shall not be required to assert any claims for such loss or damage against the common carrier involved.

**SHIPPING AND DELIVERY.** Vendor shall ship the Goods in accordance with the shipping instructions provided by We. If no instructions are provided, Vendor shall ship the Goods freight prepaid. Vendor will ship the Goods so that they are delivered to the We. "Ship To" location on the delivery date specified on the face of this Order "Delivery Date"). Deliveries to the We. Ship To location will be considered on time if they are made no more than three (3) business days earlier than the Delivery Date. We. may refuse to accept deliveries at the We. Ship To location earlier than this time or later than the Delivery Date.

Each shipment of Goods to We. shall include a packaging list which contains at least (i) the number of this Order, (ii) the quantity, and (iii) the date of shipment. If Vendor ships more Goods than ordered, We. may return the over shipment to Vendor. Vendor shall notify We. immediately when Vendor has knowledge of any potential delay in delivery. If only a portion of the Goods is available for shipment to meet the Delivery Date, Vendor shall ship the available Goods unless directed by We. to reschedule shipment.

Time is of the essence as to delivery of the Goods and Services under the Order. If Vendor is unable to deliver the Goods on time without premium routing, Vendor will ship the Goods affected by air transportation or other expedited means acceptable to We. and Vendor shall pay the difference between the cost of such expedited routing and the routing originally requested by We. Goods comprising or containing chemicals or substances shall be shipped in conformance with all laws and regulations applicable to such chemicals or substances. To the maximum extent permitted by applicable laws, We. shall not be liable for any loss or damage caused by a release of chemicals or other hazardous materials to the environment prior to We.'s actual receipt of the corresponding Goods.

**TITLE AND RISK OF LOSS.** Unless otherwise specified on the face of this Order, shipping terms shall be FOB destination. Vendor shall bear the risk of loss or damage to the Goods, and title shall not pass to We. until delivery of the Goods to the We. Ship To location.

**INVOICES AND PAYMENT.** Vendor shall issue invoices only at the time of shipment of Goods or completion of Services. Unless otherwise specified on the face of this Order, We. shall issue payment within thirty (30) calendar days of the date of receipt of a correct invoice provided Vendor has delivered conforming Goods or satisfactorily completed Services. We. may take advantage of any applicable prompt payment discount. Payment does not constitute acceptance of the Goods or Services. Adjustments for payments made for rejected Goods or Services or for any overpayments shall be deducted payments due, or at We.'s option, promptly refunded by Vendor upon request.

**CANCELLATION FOR CONVENIENCE.** We. may, for its own convenience and without charge, cancel any portion or all of this Order if We. gives Vendor notice at least thirty (30) calendar days prior to the Delivery Date. If We. cancels any portion or all of this Order (other than as a result of default by Vendor) and fails to provide the applicable notice thereof specified above, We. shall be responsible for the actual costs incurred by Vendor as a direct result of such cancellation which are not recoverable by either (i) the sale of goods or provision of the Services affected to other parties within a reasonable time, or (ii) the exercise by Vendor, in a commercially reasonable manner, of other mitigation measures. Any claim by Vendor for such actual costs shall be deemed waived by Vendor unless submitted in writing to We. within thirty (30) calendar days after We. notifies Vendor of the cancellation.

**CANCELLATION FOR DEFAULT.** We. may cancel this Order with immediate effect, or any part thereof, without liability in the event (1) Vendor fails to deliver the Goods or perform the Services within the time specified in this Order, or Vendor so fails to make progress as to endanger performance of this Order in accordance with its terms, and in either of these two circumstances Vendor does not cure such failure within a period of ten (10) calendar days (or such longer period as We. may authorise in writing) after receipt of notice of such failure from We., (2) any arrangement or composition with his creditors or becomes bankrupt or a receiving or administration order is made against the Vendor or, being a company, the Vendor is or becomes declared insolvent or in the reasonable opinion of We. is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or a resolution is passed for the winding up of the Vendor (other than solely for the purpose of amalgamation or reconstruction) or a receiver, administrator or administrative receiver is appointed of the whole or any part of its assets or undertaking or the Vendor takes or suffers any similar or analogous action in consequence of debt.

In the event We. cancels this Order, in whole or in part, as provided in this paragraph 8, Vendor shall be liable to We. for any and all damages sustained by We. in connection with the default which gave rise to the cancellation. The rights and remedies of We. contained herein are in addition to any other rights or remedies provided by law.

**INSPECTION AND ACCEPTANCE.** Vendor shall inspect all Goods prior to shipment to We. We. and its designated representatives may perform reasonable inspection of the Goods at Vendor's source site. We. may test or otherwise inspect Goods for acceptance within a reasonable time after receipt at the specified We. location. Goods which fail to pass We.'s incoming acceptance test or other inspection, if any, may be rejected by We. and returned to Vendor at Vendor's expense. We.'s rights under this paragraph 9 are in addition to We.'s rights under paragraph 10.

**WARRANTY.** In addition to any warranties, conditions or other terms implied under applicable law, Vendor warrants that all Goods will conform to and perform in accordance with the drawings, specifications, samples or other descriptions thereto, including any specifications supplied by We. Vendor further warrants that all Goods furnished pursuant to this Order will be (i) of satisfactory quality and free from all defects in material and workmanship, (ii) free from defects in design except to the extent that such Goods comply with the detailed designs provided by We., (iii) suitable for the purposes, if any, stated on the face of this Order, (iv) in compliance with all applicable laws and regulations in effect at the time the Goods are delivered and (v) in conformity with all the other requirements of this Order. Vendor warrants good title to the Goods furnished pursuant to this Order. In addition to any other rights which We. may have, if Goods are found not to be as warranted within a one (1) year period after receipt at the specified We. location (or such other longer period as is provided in Vendor's standard warranty), We. may return such Goods to Vendor, at Vendor's expense, for correction, replacement, credit or refund, as We. may direct.

Vendor warrants that all Services to be provided hereunder will be performed with reasonable skill and care in a safe and workmanlike manner and that Vendor possesses the requisite expertise, facilities and equipment necessary and appropriate to perform the Services. The Vendor warrants that all Services will be performed in compliance with all applicable laws and regulations. Vendor further warrants that the Goods furnished under this Order are new. These warranties, and all other warranties, express or implied, shall survive inspection, acceptance, non-inspection and payment.

Such warranties shall not be deemed to limit any express or implied warranties of additional scope given to We. by Vendor. All warranties, both express and implied, shall be construed as conditions. Said warranties together with all other warranties of Vendor, shall run in favour of We., its successors and assigns. Acceptance of any Goods or Services by We. shall not be deemed to alter or affect the obligations of Vendor or the rights of We., its successors or assigns under Vendor's warranties, or to waive any such rights with respect to any latent defects. Vendor agrees to indemnify and hold harmless We., its successors assigns against and in respect of all claims, actions, demands, losses, costs, expenses, liabilities and damages resulting from any breach of any of the foregoing warranties or any other warranties, express or implied.

**OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS.** For the purposes of this Order, "Intellectual Property Rights" means patents, trademarks, service marks, trade names, design rights, copyright, database rights, rights in know-how and other intellectual property rights of whatever nature arising anywhere in the world, whether registered or unregistered and including applications for the grant of any such rights. We. and Vendor agree that all results and proceeds of Vendor's Services under this Order (including any reports, software or other deliverables provided), in all stages of completion, (collectively, the "Materials") have been specially ordered or commissioned by We. and all Intellectual Property Rights in the Materials shall vest in and remain the sole and exclusive property of We.. Vendor hereby irrevocably and unconditionally assigns to We. all rights (including without limitation sublicensing rights), title, and interest in and to all such Materials. Accordingly, without limiting the generality of the foregoing, We. shall be deemed to own, without any restrictions or limitations whatsoever, the sole and exclusive rights to prepare derivative works based on the Materials and to reproduce, adapt, distribute, publicly perform and display, and otherwise exploit the Materials and such derivative works, by any and all means and in any and all media now or hereafter known, throughout the world and in perpetuity. Vendor hereby undertakes to procure the irrevocable and unconditional waiver of all rights granted by the Copyright, Designs and Patents Act 1988 (as may be amended from time to time) or any similar provisions of law in any jurisdiction that may vest in any person in connection with his or her authorship of any copyright works in the course of providing the Services, wherever in the world enforceable, including (without limitation) the right to be identified as the author of any such works and the right not to have such works altered.

Vendor shall execute and deliver to We. such additional instruments, and take such other actions, as We. may reasonably request to confirm, evidence or carry out the grants of rights contemplated by this Clause. Vendor's obligations under this paragraph will apply both during and indefinitely after the term of Vendor's engagement under this Order.

**INVENTIONS.** Vendor agrees to disclose promptly to We. all inventions or improvements made or conceived, either alone or jointly with others, in the performance of this Order as a direct result of the Services provided or confidential information obtained by Vendor during the performance of this Order. Vendor will upon request assign to We. Vendor's entire right, title and interest in and to any and all such inventions and improvements. Vendor further agrees to execute all documents and provide such other assistance as may be required for We. to obtain, maintain and protect patents on such inventions and improvements, or otherwise perfect its rights in and to any such inventions or improvements, and We. will reimburse Vendor for any expenses reasonably incurred by Vendor in so doing.

**MATERIALS AND TOOLS.** If We. furnishes Vendor with material or equipment (such as tools or information) or pays for such material or equipment, title thereto shall remain or vest in We., and Vendor shall identify, maintain and preserve such material and equipment as We. property and shall only dispose of such material and equipment in accordance with We.'s direction. Unless otherwise authorised in writing by We., Vendor shall use such material or equipment only in the performance of orders for We. Vendor shall bear all risk of loss or damage to such material or equipment until it is returned to We.. Upon request of We., Vendor shall deliver all such materials or equipment to We. in good condition, normal wear and tear excepted, without cost to We. Vendor waives any legal or equitable right to withhold or retain such material or equipment.

**INFRINGEMENT.** Vendor, at its expense, will indemnify, defend and hold harmless We. and its clients against any claims, proceedings, actions, costs, damages, expenses (including reasonable legal fees on a solicitor client basis) and any other losses or liability based on an allegation that the Goods, Materials, or Services infringe the Intellectual Property Rights of a third party provided, that 1) We. notifies Vendor promptly in writing of the claim, 2) Vendor is permitted to control the defence or settlement of the claim, and 3) We. and its clients cooperate reasonably in such defence or settlement at Vendor's expense.

In its defence or settlement of any such claim, Vendor may 1) procure for We. the right to continue using the Goods and Services (or the Materials); 2) modify the Goods or Services so that use and resale of the Goods or Materials become non-infringing; or 3) replace the Goods or re-perform the Services with equivalent Goods or Services not subject to such claim. Vendor will not be liable to We. for claims of infringement or violation based upon the sale or use of Goods manufactured according to designs furnished by We.

The foregoing states the entire obligation and liability of Vendor with respect to infringement or violation of any proprietary interest of another and claims thereof.

**CONFIDENTIAL INFORMATION.** Vendor acknowledges that We.'s use of the Goods or Services to be provided pursuant to this Order, and We.'s use of Vendor as a source for such Goods or Services, constitute confidential information of We., and Vendor agrees that it will not disclose to any third party (except to the extent that disclosure to employees of Vendor is necessary for the performance of this Order) the fact that Vendor furnished or will furnish We. with the Goods or Services specified herein, unless Vendor first obtains written consent thereto by an authorised representative of We.. All information obtained by Vendor from We. (including, without limitation, confidential information of a third party) which is identified as confidential or proprietary by We. or is acquired by Vendor under circumstances reasonably considered to impose an obligation of confidentiality shall be received in confidence, shall remain the property of We., shall not be disclosed to a third party, and shall be used by Vendor only to the extent necessary for the performance of this Order. This obligation shall survive the termination or expiration of this Agreement. Vendor shall deliver all data and information to We. upon We.'s request or upon the completion of all work hereunder or the termination or expiration thereof, whichever shall first occur, and shall be fully responsible for the care and protection thereof until such delivery. Any information which Vendor may disclose to We. with respect to the design, manufacture, sale or use of the Goods, Services or Materials covered by this Order shall be deemed to have been disclosed as part of the consideration for this Order, and Vendor shall not assert any claim against We. by reason of We.'s use thereof.

**INSURANCE.** Vendor shall, at its own cost and expense, carry and maintain sufficient insurance coverage to enable it to meet its obligations created by this Order and by law. Without limiting the foregoing, Vendor warrants that such insurance shall include the following coverage to the extent this Order creates exposures generally covered by these insurance policies: (i) Public Liability Insurance Policy in respect of loss or injury to persons or damage to tangible property with a limit of not less than £1 million per claim; (ii) Professional Indemnity Insurance coverage in respect of its undertakings and obligations under the Agreement of not less than £1 million per claim; and (iii) Employer's liability insurance cover with a policy limit of not less than £1 million per claim.

**LIABILITY.** SAVE IN RESPECT OF LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE, LIABILITY FOR FRAUDULENT MISREPRESENTATION OR ANY OTHER LAIBILITY WHICH CANNOT BE EXCLUDED BY APPLICABLE LAW, IN NO EVENT WILL We. BE LIABLE TO VENDOR FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT) INCURRED IN CONNECTION WITH THIS ORDER, WHETHER OR NOT We. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE. SUBJECT TO THE FOREGOING, We.'S MAXIMUM LIABILITY UNDER THIS ORDER SHALL NOT EXCEED THE PRICE PAID FOR THE GOODS AND/OR SERVICES UNDER THE ORDER.

**SEVERABILITY.** In the event that any provision of this Order shall for any reason be held to be unenforceable, such unenforceability shall not affect any other provision hereof, but this Agreement shall be construed as if such unenforceable provision had never been contained herein.

**ASSIGNMENT.** This Order is not assignable by Vendor, nor are its obligations delegable by Vendor, and any purported assignment or delegation shall be null and void.

**NONWAIVER.** The failure of either party to enforce, at any time, any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce any such provisions.

**NO AGENCY.** No agency, partnership, joint venture, fiduciary duty or other joint relationship is hereby created.

**NOTICES.** Notices under this Order shall be sent by certified mail, return receipt requested, or by overnight courier or shall be personally delivered to the parties at their addresses first set forth on the reverse side hereof. Notice by mail shall be deemed received three (3) days after deposit. Notices shall be sent to the addresses set forth for We. and Vendor on the reverse hereof, and notices to We. shall be sent to the attention of the Managing Director.

**HEADINGS.** The parties agree that the headings used in this Order are for reference purposes only and shall not be used in the interpretation of this Order.

**COMPLETE AGREEMENT.** This Order constitutes the complete and exclusive statement of the agreement between the parties, and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Order. Vendor acknowledges that it has not relied upon any representation or statement not contained herein. Nothing in this Agreement shall limit liability for any representations made fraudulently.

**RIGHTS OF THIRD PARTIES.** No provision of this Order shall be enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999 except that We.'s Affiliates to whom the Goods and/or Services are provided shall benefit under the Act from the provisions of this Order. No consent of any third party shall be required under the Act to any cancellation or variation of this Agreement. For the purposes of this paragraph 25 "Affiliate" shall mean any other party controlling, controlled by or under common control with Wagner Edstrom. For the purpose of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of We., whether through the ownership of shares or by contract.

**GOVERNING LAW & COMPLIANCE WITH LAWS.** This Order shall be governed by and interpreted in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts. The United Nations Convention on the International Sales of Items or services is explicitly excluded and will not apply to this Order.