

## TERMS AND CONDITIONS OF SALE

### 1.1 Interpretation.

"BUYER" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller  
"CONFORMING GOODS" means Goods conforming to the Contract in quality and quantity  
"GOODS" means the Goods including any instalment or commissioning of the goods or any parts for them which the seller is to supply in accordance with these conditions  
"SELLER" means Express CVC Limited (registered in England under number 4718669)  
"CONDITIONS" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller  
"CONTRACT" means the contract for the purchase and sale of the Goods and (where appropriate) the carrying Out of the Works

"WORKS" means the commissioning and/or installation work or services (if any) relating to the goods to be carried out by the seller

1.2 Headings in these Conditions are for convenience only and shall not affect their interpretation

### 2. Basis of Sale

2.1 The Seller shall sell and the Buyer shall purchase the goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller in writing or in the absence of either, in accordance with any verbal quotation of the Seller which is accepted by the Buyer or any verbal order of the Buyer which is accepted by the Seller, in all cases to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer.

2.2 No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods or the works unless confirmed by the seller in writing. In entering into the contract the buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales Literature, quotation, price list. Acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

2.6 All drawings, specifications, technical data, manufacturer's Literature etc. prepared and/or submitted By the Seller are approximate only. As a result of continuing development and improvement the actual details may vary from those given in the above documents.

### 3. Orders and specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.3 The Seller reserves the right to make any changes in the specification to the goods conform with any applicable safety or EC other statutory requirements.

3.4 Any description of the Goods and for works has been given by way of Identification only and the use of such description shall not constitute a sale by description.

### 4. Price

4.1 The price of the Goods shall be the Seller's quoted price enhanced as appropriate pursuant to clause

4.3 hereof. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer.

4.2 The price of the Works if any shall be the Seller's quoted price.

4.3 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increases in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specification for the Goods which is 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.

4.4 The price is exclusive of any applicable value added tax which the Buyer shall be additionally liable to pay to the Seller.

4.5 except as otherwise stated under the terms of any quotation, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and Insurance unless otherwise agreed in writing by the Seller to the Buyer.

### 5. Terms of Payment

5.1 Unless otherwise agreed in writing the price of the Goods shall be payable by the Buyer to the Seller as follows:-

100% With Order

5.2 The time of payment of the price shall be of the essence of the contract.

5.3 if the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to

5.4.1 cancel the contract or suspend any further deliveries to the Buyer (whether under this or any other contract) and/or

5.4.2 appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (Notwithstanding any purported appropriation by the Buyer)

5.4.3 charge the Buyer interest (both before and after any Judgement) on the amount unpaid at the rate of 4% over the Barclays Bank base rate from time to time until payment in full is made such interest to be calculated on a daily basis.

5.5 In the case of a first purchase by a Buyer from the Seller, the Seller reserves the right to check the credit status of the Buyer. In such case the Seller's acknowledgement of the Buyers order is subject to credit status approval and to confirmation in writing by the Seller to the Buyer that such approval has been given.

### 6. Delivery

6.1 If it has been agreed between the parties that the goods shall be delivered to the buyer by the seller delivery shall take place on the arrival of the vehicle carrying the goods at the Buyers premises. If some other place for delivery is agreed but the seller or its agent includes that the buyer will collect the goods from the seller, delivery of the goods shall be accepted by the Buyer upon notification by the seller to the Buyer that the goods are ready for delivery. Notification may be in writing or oral.

6.2 Where prices quoted for Goods are shown inclusive of delivery and commissioning, all costs in the transportation of the Goods to the Buyer's premises and in the Seller's representatives reasonable time for the commissioning of the same are included in the quoted price.

6.3 The Buyer also agrees to provide at its own cost, labour to assist with the installation of the Goods.

6.4 Where it has been agreed that the Goods will be delivered to the Buyer's premises by the Seller or a carrier the Buyer shall be responsible for providing suitable equipment and personnel for offloading the Goods from the delivery vehicle and for transporting the Goods to the required location. The Buyer shall also be responsible for:-

6.4.1 Locating the Goods on a prepared and acceptably recommended foundation and for all other necessary works

6.4.2 removing rust preventative

6.4.3 Providing cable to the Goods from a suitable isolator

6.4.4 All relevant consents under statute or local legislation of whatever nature

6.5 Training and installation shall be provided by the Seller to the Buyer in accordance with the terms of the written quotation provided by the Seller to the Buyer unless otherwise agreed in writing by the Seller.

6.6 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer. The Seller shall not be subject to any liability for late delivery unless the extent of such liability has been specifically agreed in writing by the Buyer and the Seller.

6.7 Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these conditions or any claim by the Buyer in respect of any one or more instalment shall not entitle the Buyer to treat the contract as a whole as repudiated.

6.8 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and if the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.

6.9 If the Buyer fails to take delivery of the Goods or fails to give the seller adequate delivery instructions at the stated for delivery then without prejudice to any other right or remedy available to the Seller, the Seller may

6.9.1 Store the Goods until actual delivery and charge the Buyer for the reasonable cost (including insurance) of Storage or

6.9.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling Expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall Below the price under the Contract

6.10 Any slings and Lifting bars which the Seller has indicated in writing to the Buyer are returnable will be credited in full if returned carriage paid and in good condition within 14 days of receipt by the Buyer.

### Risk and Property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or if the Buyer Wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the goods or any other provision of these Conditions the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and unless the Goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to re-sell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and. In the case of tangible proceeds, properly stored, protected and insured.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the goods are still in existence and have not been resold), the Seller shall be entitled at anytime to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

### 8. Tests

Notwithstanding clause 12.4 any Goods supplied by the seller to the buyer which the seller confirms in writing to the Buyer are to be subject to tests of inspection by the Buyer, must be tested or inspected by the Buyer at me Sellers premises.

### 9. Warranties and Liability

9.1 Subject to the Conditions set out below the Seller warrants that:-

9.1.1 The Goods will correspond with their specifications at the time of delivery

9.1.2 The machine tool excluding control and drives or spare parts will be free from defects in material and workmanship for a period of 12 months / 2000 hrs from the date of installation whichever is first.

9.1.3 The Fanuc control and drives will be free from defects in material and workmanship for 24 months from the date of installation

9.2 The above warranty is given by the Seller subject to the following conditions,

9.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing design or specification supplied by the Buyer

9.2.2 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wild damage, Negligence, abnormal working conditions, failure to following the Sellers instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval

9.2.3 The Seller shall be under no liability under the above Warranty (or any other warranty condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.

9.3 Subject as expressly provided in these conditions all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.4 Any claim by the Buyer which is based on any defect in the quality and condition of the Goods or their failure to correspond with specification or on any damage in transit or shortage in delivery shall (whether or not delivery is refused by the Buyer) be notified to the Seller within seven days from the date of delivery or tender of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after

discovery of the defect, failure, damage or shortage. If the Buyer does not notify the Seller accordingly the Buyer shall be deemed to have accepted the Goods and shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure or damage in transit or shortage in delivery and the Buyer shall be bound to pay the price as if the goods had been delivered in accordance with the contract. If delivery is made by a carrier the Seller shall have no liability in respect of any damage in transit or shortage in delivery if the Goods were accepted by the Buyer without inspection.

9.5 The provisions of s.35 of the Sale of Goods Act 1979 and of s.2 of the Sale and Supply of Goods Act 1994 are (to the extent permitted by law) excluded insofar as they are inconsistent with these Conditions.

9.6 Where any valid claim in respect of any Goods which is based on any defect in the quality and condition of the Goods or their failure to meet specification or on any damage in transit or shortage in delivery is notified to the Seller in accordance with these conditions the Seller shall be entitled to replace or repair the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund the Buyer the price of the goods or a proportionate part thereof, but the Seller shall have no further liability to the Buyer.

9.7 Except in respect of death or personal Injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation or any implied warranty condition or other term or any duty at common law or under the express or implied terms of the contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims or consequents compensation whatsoever (and whether caused by the negligence of the Seller its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer except as expressly provided in these conditions.

9.8 Without prejudice to the foregoing limitations the Seller's liability for damages in the event of any breach of or failure to perform the Contract will not exceed the Contract purchase price or proportionate part thereof in respect of the Goods concerned.

9.9 The Seller shall not be liable to the Buyer or deemed to be in breach of the contract by reason of any delay in performing or any failure to perform any of the Seller's obligation in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control, without prejudice to the generality of the foregoing the following should be regarded as causes beyond the Seller's reasonable control

9.9.1 Act of God, Explosion, flood, tempest, fire or accident

9.9.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition

9.9.3 Acts restrictions, regulations, bye laws, prohibitions or measures of any kind on the part of any governmental parliamentary or Local Authority.

9.9.4 import or export regulations or embargoes

9.9.5 strikes, lock outs or other industrial actions or trade disputes (whether Involving employees of the Seller or a third party)

9.9.6 Difficulties in obtaining raw materials, labour, fuel parts or machinery

9.9.7 Power failure or breakdown in machinery

9.9.8 Failure by the Buyer to provide necessary information, specification, measurements or dimensions to the seller

9.9.9 Failure on the part of the Buyer to collect the Goods in accordance with clause 6.1 (where applicable).

9.11 The Buyer shall take whatever steps are necessary to ensure that the Goods will be safe and without risk to health when stored on the Buyers premises or used by Buyer.

9.12 Where the Seller provides installation or commissioning services at the Buyers premises the Buyer shall indemnify the Seller against the consequences of any defects or unsuitability of any plant or apparatus provided the Buyer and against all claims by third parties or other.

10 Intellectual Property

10.1 The Buyer shall not make any alteration or modification to the Goods without prior written consent of the Seller and shall not do or commit any act or omission which may lead to the infringement or jeopardising of the Seller's trade marks (if any) or CE Mark.

10.2 All drawings specifications and technical data prepared or provided by the Seller shall remain the property of the Seller and any copyright arising therein shall be the property of the Seller.

### 11. Insolvency of Buyer

11.1 This clause applies if

11.1.1 The Buyer makes any voluntary arrangement with its creditors or becomes subject to an Administration Order Or becomes bankrupt or goes into liquidation or

11.1.2 An encumbrance takes possession or a Receiver is appointed of any of the property or assets of the Buyer Or

11.1.3 The Buyer ceases or threatens to cease to carry on business

11.1.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly

11.2 If this clause applies then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### 12. Export

12.1 Where the Goods are supplied for export from the United Kingdom the provisions of this clause shall apply notwithstanding any other provision of these conditions.

12.2 In these conditions "Incoterms" means the international Rules for the Interpretation of Trade Terms of the International Chamber of Commerce as in force at the date when the contract is made. Unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these conditions but if there Is any conflict between the provisions of incoterms and these conditions the latter shall prevail.

12.3 The Buyer shall be responsible for complying with any legislation or regulations governing the Importation of the Goods into the country of destination and for the payment of any duties thereon.

12.4 The Buyer shall be responsible for arranging for testing and inspection of the Goods at the Seller's premises before Shipment, the Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment or in respect of any damage during transit. Snipping specifications and weights outline drawings and dimensions given with quotations are approximate only.

### 13. Acceptance

13.1 If the Buyer would apart from this clause 13 have had the right to reject the Goods or part of them then he may exercise that right solely in one of the following ways (and in no other way)

13.1.1 Accept all the Conforming Goods and reject all the non-conforming Goods; or 13.1.3 keep all the Goods

13.2 The provisions of s.3 of the Sale and Supply of Goods Act 1994 are hereby excluded.

### 14. General

14.1 No waiver by the Seller of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or of any other provision.

14.2 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 other provisions of the conditions and the remainder of the provision in question shall not be affected thereby.

14.3 The Contract shall be governed by me laws of England and the Buyer and the Seller each submit to the jurisdiction of the English Courts.