

TERMS & CONDITIONS FOR MSC PRODUCT SUPPLIERS

1. INTERPRETATION

1.1 Definitions:

Application: MSC's form of application for price increase of the Goods.

Approval Documents: the mandatory documents listed in *Schedule 2*, as amended from time to time and which MSC requires to be completed, signed and returned to MSC prior to becoming an approved supplier of MSC.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with Clause 16.5.

Contract: the contract between MSC and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

Customer: a customer of MSC.

MSDS: Material Safety Data Sheets.

MSC: MSC Industrial Supply Co, 7 Pacific Avenue, Wednesbury, West Midlands WS10 7WP, Registered Number FC020431, Branch Number BR004020, a division of J&L America Inc, a domestic profit corporation with limited liability incorporated in Michigan, USA with registered number 210300, 75 Maxess Road, Melville, New York 11747, United States.

Delivery Date: the date specified in the Purchase Order, or, if none is specified, within 5 days of the date of the Purchase Order.

Delivery Location: the address for delivery of Goods at an MSC UK customer fulfilment centre or Customer's location (in the case of directly shipped products) as set out in the Purchase Order.

Goods: the goods (or any part of them) set out in the Purchase Order.

Intellectual Property: the logos, trademarks, service marks, trade names and domain names of the Supplier.

Mandatory Policies: MSC's business policies listed in the *Schedule 1*, as amended by notification to the Supplier from time to time.

Purchase Order: MSC's order for the Goods, as set out in MSC's purchase order form.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by MSC and the Supplier.

Supplier: the person or firm from whom MSC purchases the Goods.

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (c) a reference to **writing** or **written** includes emails.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. MSC objects to the inclusion of any different or additional terms proposed by the Supplier in the acceptance of the Purchase Order and, if such terms are included in the Supplier's acceptance, a contract that results will be governed only by these Conditions.
- 2.2 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

3. THE PURCHASE ORDER

- 3.1 The Purchase Order constitutes an offer by MSC to purchase the Goods in accordance with these Conditions.
- 3.2 All Purchase Orders submitted to the Supplier by MSC are subject to these Conditions.
- 3.3 The Purchase Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier issuing a written acceptance of the Purchase Order; and
 - (b) the Supplier doing any act consistent with fulfilling the Purchase Order,at which point the Contract shall come into existence.
- 3.4 On receipt of the Purchase Order, the Supplier shall provide written confirmation to MSC's purchasing department of the Supplier's acceptance of the Purchase Order including confirmation of the quantity, price and delivery details of the Goods to be provided. Failure to provide written confirmation of the Purchase Order by the Supplier may result in delays to payment of the Goods.
- 3.5 MSC may cancel any Purchase Order or any portion thereof prior to shipment of the products by the Supplier.

4. THE GOODS

4.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description, any applicable Specification or samples furnished by the Supplier;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by MSC expressly or by implication, and in this respect MSC relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 18 months after delivery;
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
- (e) comply with all legislative and compliance standards to ensure the Goods are legally saleable within the United Kingdom and the European Union.

4.2 The Supplier warrants that neither the Goods nor any accompanying product information will infringe on the rights of any third party, including any liens or security interest of any intellectual property rights (including any patents, trademarks, copyrights or trade secrets). This warranty will survive acceptance of any payment for the Goods.

4.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

4.4 MSC (or Customer as the case may be), may inspect and test the Goods and may accept or reject the Goods within a reasonable time after receipt. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

4.5 If following such inspection or testing MSC or the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at Clause 3.1, MSC shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

4.6 MSC or the Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4.7 The Supplier shall provide written notification to MSC if any of the Goods to be supplied are to become discontinued. Such notification shall be provided to MSC 6 months ahead of any discontinuation of the Goods.

5. DELIVERY

5.1 The Supplier shall ensure that:

- (a) the Goods together with any delivery paperwork are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) the Goods of individual Purchase Orders are to be packaged separately from other purchase orders;
- (c) the Goods are clearly labelled and include barcodes as specified in MSC's *Packaging and Labelling Requirements* policy which form part of MSC's Mandatory Policies;
- (d) prior to delivery of the Goods it advises MSC of any large pallet and any hazardous Goods deliveries in accordance with the *Delivery Requirements* policy which form part of MSC's Mandatory Policies;
- (e) each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), MSC part number, vendor part number, the quantity and description of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
- (f) if the Supplier requires MSC to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier;
- (g) upon request each delivery of Goods shall identify in writing, in a format specified by MSC, the country of origin for each of the Goods furnished;
- (h) where applicable appropriate MSDS are furnished; and
- (i) proof of delivery of the Goods is supplied upon request by MSC.

5.2 If for any reason the Supplier is unable to apply the appropriate barcode(s) for the Goods, the Supplier is to promptly inform MSC and MSC shall supply barcode labels as applicable to the Supplier. Such barcodes are to be applied to the Goods prior to delivery at no cost to MSC.

5.3 The Supplier shall deliver the Goods:

- (a) On or before the Delivery Date;
- (b) at the Delivery Location; and
- (c) during MSC's normal receiving business hours, or as instructed by MSC.

5.4 Delivery of the Goods shall be completed when the Goods are received at the Delivery Location stated in the Purchase Order.

- 5.5 The Supplier shall not deliver the Goods in instalments without MSC's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, it is agreed that there shall be one invoice per delivery and not consolidated invoices. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle MSC to the remedies set out in Clause 7.

6. RETURNS

- 6.1 MSC may, subject to negotiated restocking charges, return any purchased Goods as long as the Goods are in re-saleable condition, and MSC shall receive a credit from the Supplier at the previously invoiced or paid price.

7. REMEDIES

- 7.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in Clause 4.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, MSC may exercise any one or more of the following remedies:
- (a) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - (b) to require the Supplier to replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - (c) to terminate the Contract if the Supplier has not remedied its breach within 1 month of written notice by MSC to remedy such breach;
 - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - (e) to recover from the Supplier any costs incurred by MSC in obtaining substitute goods from a third party; and
 - (f) to claim damages for any other costs, loss or expenses incurred by MSC which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 7.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 7.3 If any governmental authority seizes or orders recall of the Goods or if the Supplier deems it necessary to recall any of the goods for any reason, at MSC's option, the Supplier shall either
- (a) replace at no cost to MSC, the seized or recalled Goods with an equal quantity of complying Goods or
 - (b) refund the purchase price paid by MSC for such Goods.

- 7.4 MSC's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

8. TITLE AND RISK

Title and risk in the Goods shall pass to MSC on completion of delivery of the Goods at MSC's customer fulfilment centre (except when the Purchase Order identifies the Customer's location for delivery, in which case title passes when the Goods are received by the transportation carrier).

9. PRICE AND PAYMENT

- 9.1 The price of the Goods shall be the price set out in the Purchase Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 9.2 The Supplier is not permitted to increase the price for any of its Goods unless otherwise agreed in writing by MSC's product manager and further provided the Application for such price increase is duly completed and submitted by the Supplier to MSC. Such Application is available upon request by the Supplier. Any price increase will be implemented 3 months after the written agreement to increase the price of any Goods has been signed by MSC's product manager.
- 9.3 The price of the Goods:
- (a) excludes amounts in respect of value added tax (**VAT**), which MSC shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (b) includes the costs of freight, packaging, insurance, handling charges and carriage of the Goods.
- 9.4 No extra charges (including any minimum order charge) shall be effective unless agreed in writing with MSC.
- 9.5 The Supplier may invoice MSC for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Purchase Order, the invoice number, the Supplier's VAT registration number and any supporting documents that MSC may reasonably require.
- 9.6 MSC shall pay correctly rendered invoices within 60 days of the end of the month of the invoice date, unless otherwise agreed in writing. Payment shall be made to the bank account nominated in writing by the Supplier.
- 9.7 The Purchase Order number, advice note number and item code shall be quoted on all invoices. All invoices are to be sent to MSC within twenty-four (24) hours of the Goods being dispatched.
- 9.8 If the Supplier fails to make any payment due to MSC under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate

of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.

- 9.9 MSC may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to MSC against any liability of MSC to the Supplier.

10. INDEMNITY

- 10.1 MSC and the Supplier will hold harmless one another and the other's shareholders, directors, officers, agents, employees, customers and subcontractors from any liability, claims, demands, damages, fines, penalties, costs or expenses (including reasonable attorney and other professional fees and disbursements) relating to:

- (a) any products furnished to MSC or MSC's Customers (in the case of Supplier);
- (b) any act or omission of MSC or Supplier, as the case may be, or its respective agents, employees or subcontractors.

- 10.2 The foregoing provision at Clause 10.1 will apply regardless of whether a claim or demand arises under tort, negligence, contract, warranty, strict liability, non-compliance with governmental requirements or other legal theories. Clause 10.1 will not apply to the extent liability arises out of the negligence or wilful misconduct of MSC or its agents, employees or subcontractors and will be in addition to any other remedies afforded under law.

- 10.3 Except as otherwise provided herein, neither MSC nor the Supplier will be liable to the other for any indirect damages or any lost revenues or lost profits, even if advised of the possibility of such damages.

- 10.4 This Clause 10 shall survive termination of the Contract.

11. INSURANCE

- 11.1 During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on MSC's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

- 11.2 The insurance set out in Clause 11.1 is subject to an overall annual aggregate limit of £5 million and to £1 million for any one claim.

12. INTELLECTUAL PROPERTY

- 12.1 The Supplier grants MSC a non-exclusive, irrevocable, worldwide royalty free right to use the Supplier's Intellectual Property in connection with any MSC catalogues, websites or other sales and marketing materials, unless otherwise agreed in writing. MSC will use the

Supplier's Intellectual Property consistent with reasonable Supplier quality standards communicated to MSC. All goodwill from MSC's use of the Supplier's Intellectual Property shall benefit the Supplier. Notwithstanding any termination of the Contract pursuant to Clause 14, MSC may continue to use the Intellectual Property for such period of time as MSC holds and/or stores the Goods.

13. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

13.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations from time to time in force; and
- (b) comply with the Mandatory Policies.

13.2 The Supplier shall, as required from time to time by MSC and prior to becoming a supplier of MSC, duly complete, sign and return the Approval Documents to MSC.

13.3 Upon request, the Supplier will provide MSC with information to ensure compliance with such laws and regulations.

13.4 The Supplier warrants and represents that no products furnished to MSC are produced by any form of slavery or human trafficking and that it complies with the Modern Slavery Act 2015 (as may be amended from time to time).

13.5 MSC may immediately terminate the Contract for any breach of Clause 13.

14. TERMINATION

14.1 MSC or the Supplier may terminate the Contract for whatever reason, on giving 3 calendar months' notice (by a duly authorised officer) in writing to the other party.

14.2 Without limiting its other rights or remedies, MSC may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 1 calendar month of that party being notified in writing to do so;
- (b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (e) the Supplier's financial position deteriorates to such an extent that in MSC's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

14.4 Clauses that expressly or by implication survive termination of the Contract shall continue in full force and effect.

15. FORCE MAJEURE

15.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate the Contract by giving 7 days written notice to the affected party.

16. GENERAL

16.1 Customer Details.

- (a) The Supplier may not share and/or distribute any Customer details with any third party, and such Customer details may not be stored by the Supplier.
- (b) The Supplier agrees that it will not contact the Customer unless requested to do so by MSC.

16.2 Assignment and other dealings

- (a) MSC may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of MSC.

16.3 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of MSC. If MSC consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

16.4 **Entire agreement.** The Contract constitutes the complete and entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, provided, that, if the parties have entered into a separate supplier agreement that continues to be in effect on the date of the Purchase Order, the supplier agreement will supersede these Conditions.

16.5 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in

writing and signed by both MSC and the Supplier.

- 16.6 **Waiver.** Except as set out in Clause 2.2 no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 16.8 **Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first-class post or other next working day delivery service, commercial courier, email.
 - (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 16.8(a); if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
 - (c) This clause does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.
- 16.9 **Third party rights.** No one other than a party to the Contract shall have any right to enforce any of its terms.
- 16.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 16.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

SCHEDULE 1

Mandatory Policies

The following is a list of MSC's Mandatory Policies:

- Pricing Policy
- RoHS Compliance Declaration
- REACH Compliance Declaration
- MSC Industrial Direct CO INC Modern Slavery Policy
- Image Submission Guidelines for Print
- Delivery Requirements
- Packaging and Labelling Requirements
- The Packaging Waste Regulations
- Product Complies with WEEE
- Support MSC to comply with Dodd Frank Act (section 1502) on Conflict Minerals
- Shelf Life and Expiry Date Policy
- Policy and Maintenance of MSDS

SCHEDULE 2

Approval Documents

The following is a list of the Approval Documents:

- Vendor Contact Information
- Supplier Inventory Review Agreement
- Quality Questionnaire
- Request for Supplier Bank Details
- Returns Policy Questions
- RoHS Compliance Declaration*
- REACH Compliance Declaration*
- MSC Industrial Direct CO INC Modern Slavery Policy*
- Product Complies with WEEE*
- Support MSC to comply with Dodd Frank Act (section 1502) on Conflict Minerals*

*Such Approval Documents are also considered to be Mandatory Policies of MSC, and in accordance with fulfilling its obligations under the Contract, the Supplier shall ensure compliance with the Mandatory Policies.