



DEFINITIONS

In these Terms and Conditions the following apply:

- "Buyer"** means any company, firm or individual or agent thereof to which the Company supplies Goods.
- "Company"** means Hystat Systems Limited registered in England and Wales, company number 1244978.
- "Contract"** means the contract between the Company and the Buyer for the supply of Goods and/or Services, formed.
- "Goods"** means the products (including any parts or accessories) and/or materials or any of them to be supplied by the Company in accordance with the Order Confirmation.
- "IPR"** means all intellectual and industrial property rights, including without limitation patents, know-how, trade marks (registered or not), registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, copyright and database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions thereof.
- "Liability"** means liability arising out of or in connection with a Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under that Contract and/or any defect in any of the Goods or Services, in each case howsoever caused including if caused by negligence.
- "Order"** means the order placed by the Buyer on the Company for the supply of Goods, confirmed in the Order Confirmation.
- "Taxes"** means every description of tax, duty, charge, tariff or levy, whether direct or indirect, imposed from time to time by any government or other authority, and any related interest, penalty, fine or other amount.
- "United Kingdom"** means England and Wales, Northern Ireland and Scotland and a reference to the United Kingdom includes a reference to any one of these.
- "VAT"** means value added tax or any replacement or overseas equivalent of Value Added Tax or similar sales tax.

1/ THE CONTRACT

- A Each Order or acceptance of a quotation for Goods will be deemed to be an offer by the Buyer to purchase such Goods in accordance with these Terms and Conditions and the Contract will be formed when the Order is accepted by the Company by way of a written acknowledgement/ order confirmation. These Terms and Conditions shall govern relations between the Buyer and the Company to the exclusion of any other terms and conditions (including, without limitation, any contained in an Order), whether issued by paper-based transactions or other forms of electronic data interchange or electronic commerce, which purport to provide that the Buyer's own terms and conditions shall prevail.
- B The Buyer is responsible for ensuring that the terms of the Order and any applicable technical specifications are full, complete and accurate and must be submitted to the Company in writing.
- C Orders are accepted subject to the credit status of the Buyer being established to the Company's satisfaction.
- D Except in the case of fraud, the Company shall incur no liability to the Buyer for misrepresentation by virtue of any statement made by or on behalf of the Company prior to the Contract, whether orally or in any document, including any sales literature, and, save as excepted above, the Buyer shall not be entitled to rescind the Contract on the grounds of any such misrepresentation.
- E No variation or modification of these Terms and Conditions or of any Contract formed pursuant thereto shall be valid unless agreed in writing by the Company.
- F The Company shall be entitled to sub-contract all or any of its obligations under any Contract.

2/ QUOTATIONS

- A The Company's quotations are given without commitment and no Contract between the Company and the Buyer shall arise unless and until the Company has accepted in writing an Order. Quotations shall be valid for a period of 30 days from the date of issue or (if different) the period specified with the quotation itself.
- B Prices contained in any quotation or in any price list, catalogue or similar shall be those prevailing at the date thereof and are for guidance only.

3/ PRICES AND TAXES

- A Pricing for an Order will be set out in the Order Confirmation. The Company reserves the right, however, to increase the price of Goods to reflect any increase in the cost of the Goods due to:
- Ai* any factor beyond the Company's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, the cost of materials, manufacturing costs, carriage and insurance) which may come into force between the date of the Order Confirmation and delivery date; or
 - Aii* any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered or the specification; or
 - Aiii* any delay or increased costs caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate or accurate information or instructions.
- B If, after the Order Confirmation has been despatched by the Company, the Buyer wishes for any reason to move the delivery to a later date, the Company reserves the right to make an additional charge on the value of the Order. The prices do not include any applicable Government, regional



or local sales, use, excise, value added or similar type tax or assessments applicable to the price, sale, use or delivery of the Goods ordered by the Buyer. Such taxes and assessments will be included in the Company's invoice and paid by the Buyer unless the Buyer's Order plainly states the existence of an exemption from any such tax or assessment and the Buyer provides the Company with evidence of such exemption from the applicable taxing authority.

- C All prices quoted are exclusive of delivery unless otherwise stated on the Order Confirmation.
- D All prices quoted are inclusive of packaging unless otherwise stated. If a product cannot be packaged the Company will advise options for loading on to a vehicle.
- E Due to the high cost of processing orders, the Company has a minimum order charge of £100.

4/ DELIVERY

- A Delivery shall be deemed to occur and the risk of loss of or damage to any Goods shall pass to the Buyer in accordance with the applicable Incoterms®. Unless otherwise agreed in writing upon between the Buyer and the Company, the applicable delivery term shall be EXW Incoterms® 2021. The Company has no obligation to clear the Goods for import, pay any import duty, cost, levy, tax, charge or tariff or carry out any import customs formalities. The Buyer will therefore be responsible for obtaining, at its own risk and cost, transportation and any import authorisation or other official authorisation and for carrying out all customs formalities for the import of Goods.
- B Where any sale of Goods would be eligible for exemption from VAT it is the Buyer's duty to comply with any necessary conditions, such as furnishing the Company with its national VAT registration number and/or proof of export from the United Kingdom. If it does not comply with all such conditions the Company will charge VAT in addition.
- C In the event that the Company shall at the specific request of the Buyer store the Goods then the Buyer shall pay the Company such reasonable charges as the Company may request on account thereof. Carriage of Goods is wholly for the Buyer's risk and account, but shall be arranged by Company and the transportation costs invoiced to the Buyer. Without prejudice to the foregoing, if any of the services are to be provided by a carrier or other third party or the Goods are delivered wholly or partly by a person other than the Company, the Company shall, in arranging for the provision of the same, act only as the agent of the Buyer and the Buyer shall indemnify the Company against any costs, charge or expenses thereby incurred by the Company.
- D In the event of the Company delivering the Goods, in no circumstances shall the Company be liable for any failure of delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5/ REJECTION OF GOODS

- A The Buyer shall carefully examine the Goods on delivery of the same and shall, by written notice to be received by the Company within seven (7) days after delivery, notify the Company of any short delivery or over-delivery and/or of any defects discovered therein.
- B If the Buyer neglects to serve notice under this clause then, subject only to its warranty obligations, the Company shall, be discharged from all Liability in respect thereof.
- C If the Buyer neglects to serve notice of any over-delivery, then the Company may at its option either repossess the excess Goods or invoice the Buyer for them at the price ruling at the date of delivery.
- D In no case will the Buyer be entitled to reject the Goods on the grounds of shortage.
- E If the Buyer is unwilling or unable to accept delivery at the Delivery Location when the Company attempts to deliver, or collect the goods within seven (7) days, the Company shall have the right, in addition to any other rights granted by these Conditions or in law, to make a storage charge for the Goods not so delivered/collected and also to recover from the Buyer all transport and handling costs.

6/ CANCELLATION

- A The Company reserves the right to refuse purported cancellation of any Order once an Order Confirmation has been issued and to demand payment of the full price of the same, although the Company may, at its sole discretion, accept any cancellation upon such terms as it thinks fit.
- B If cancellation of the Order is accepted by the Company, the following terms apply:
 - Bi* Standard or Stock items – a minimum re-stocking charge of 20% will be applied by the Company; *or*
 - Bii* Engineering Orders – the Buyer shall reimburse the Company for all costs incurred in design and manufacture up to the date of cancellation and additionally indemnify the Company fully in respect of all costs and expenses relating to equipment which the Company has ordered and obtained to fulfil the Order and meet the Buyer's requirements.

7/ FORCE MAJEURE

- A The Company shall not be liable for any delay or failure in carrying out its obligations hereunder which is caused wholly or partly by any change, event or occurrence arising out of or in connection with the decision of the United Kingdom to withdraw from the European Union or any circumstances beyond its reasonable control effecting itself, its suppliers and/or its carriers (Event of Force Majeure). An Event of Force Majeure shall include, without limitation act of God, delay in transportation, labour disputes, fire, flood, war, epidemics, pandemics or other serious widespread illness(es), public health emergency/ies, accident, action of any government, or inability to obtain adequate labour or materials or manufacturing facilities or energy, and if the delay or failure has continued for a period of 3 months then either party may give notice in writing to the other terminating the Contract and on such termination the Company shall refund to the Buyer such portion of the price of the Goods and/or the Services as may exceed the amount due to the Company and already paid. Notwithstanding the aforementioned, Buyer shall not be entitled to order cancellation following its issuance of a unilateral production stop not initiated by government decision.
- B If a change in any applicable law or the introduction of any law occurs which renders some or all of the activities of a party in connection with a Contract illegal or unlawful then the Company may terminate that Contract immediately by giving written notice to that effect to the Buyer, in which case the Company shall refund any monies already paid by the Buyer to the Company under the terminated Contract in relation to any unperformed obligations of the Company.

8/ TERMINATION

- A If:
 - Ai* the Buyer shall make default in or commit a breach of the Contract or of any of its obligations to the Company; *or*
 - Aii* the Buyer has an administration order (or an application for an administration order) made in respect of it; *or*
 - Aiii* the Buyer has a notice of appointment of an administrator or a notice of intention to appoint an administrator filed in respect of it at any court; *or*
 - Aiv* any distress or execution shall be levied upon the Buyer's property or assets; *or*
 - Av* the Buyer shall make or offer to make any arrangement or composition with his creditors or commit any act of bankruptcy; *or*
 - Avi* any petition or receiving order in bankruptcy shall be presented or made against the Buyer; *or*
 - Avii* any resolution or petition to wind up the Buyer's business (otherwise than for the purpose of a solvent amalgamation or reconstruction) shall be passed or presented; *or*
 - Aviii* a receiver of the Buyer's undertaking, property or assets or any part thereof shall be appointed; *or*
 - Aix* the Buyer being a foreign entity or domiciled outside of the United Kingdom, any arrangements or events occur under the laws of its country of domicile which have a similar effect to those herein before described.



- B The Company shall have the right immediately to terminate any Contract and upon written notice of such termination being given to the Buyer any Contracts shall be terminated and the Company shall be entitled to recover from the Buyer all losses, damages, costs and expenses thereby arising but not limited to those that are partially complete.

9/ PARTIAL COMPLETION

- A In the case of partial completion of an Order by reason of any of the event of Force Majeure or Termination the Company shall be entitled to payment by way of a quantum meruit for all work done by it, without prejudice to any of its rights or remedies should non-completion be occasioned by the Buyer.

10/ PAYMENT

- A Unless otherwise expressly agreed in writing, payment shall be made in sterling in cleared funds, without any deduction, set-off, restriction, condition or deferment on account of any disputes or cross-claims or present or future Taxes whatsoever (unless and to the extent that the Buyer is required by law to make such deduction). An emailed copy invoice will be supplied to the Buyer unless the Buyer has opted to receive a hard copy either by informing the Company that they would prefer a hard copy and supplying an appropriate mailing address. It is the Buyer's responsibility to inform the Company of any changes to the Buyer's nominated address and email address (if any). Non-payment which results from non-receipt of an invoice owing to failure to change the recipient address and email address (if any) will still be subject to the terms set out below.
- B Time for payment is of the essence and payment shall be due net cash within 30 days from the date of invoice unless otherwise contractually agreed. In the event of any delay or default in any payment exceeding 7 days the Company shall be entitled to suspend delivery of the relevant Goods (and any other Goods subject of any Contract) and/or treat the Contract (and any other Contract between the Company and the Buyer) as repudiated and/or re-sell any of the Goods in its possession, and be indemnified by the Buyer for any loss, damages, costs or expenses incurred by reason of any of the foregoing.
- C In the event that instalment deliveries have been agreed this will be noted on the Order Confirmation and payment for each instalment shall be duly made within 30 days of the invoice date unless otherwise contractually agreed, in respect of that instalment.
- D If full payment is not received by the due date, interest shall accrue on the sum outstanding at the rate of 5% per annum above the base rate of Lloyds Bank plc (as varied from time to time), calculated on a daily basis, but without prejudice to the Company's rights.
- E If payment is required before delivery, this will be indicated on the Order Confirmation. Irrespective of any estimated delivery date, Goods will not be delivered until payment in full has been received.
- F Non-payment on, or before the due date, shall entitle the Company without prejudice to any other rights to:
- Fi* suspend any further deliveries of Goods whether under this Contract or under any other;
 - Fii* to repossess the Goods (the Buyer granting the Company all necessary access); and
 - Fiii* to receive interest at the rate of 5% above Lloyds Bank plc base rate for the time being on the unpaid balance whether before or after any judgement.
- G The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, the application of any credit, deduction or withholding (except for any deduction or withholding required by law). In the event that the Buyer considers that it has any claim for a refund or credit in relation to Goods or packaging returned (or otherwise), the Buyer must follow the returns procedure.

11/ INSPECTION AND TESTING

- A The Company inspects all Goods prior to delivery and where practicable submits them to standard tests at the Company's premises. Special tests or standard tests in the presence of the Buyer or his representative may be undertaken by the Company at the request and expense of the Buyer, where agreed in advance with the Company, and unless otherwise agreed such tests shall be conducted at the Company's premises.

12/ WARRANTY

- A The Company warrants that the Goods will be of good materials and workmanship and in performing the Services it will use reasonable skill and care so that, upon the Buyer giving written notice to the Company that the Goods have not been supplied and/or the Services have not been performed as aforesaid, if the same be established, subject to the Company's Liability for breach of the warranty at the Company's option, to replace or repair such defective Goods or remedy such defaults.
- B This warranty obligation shall not apply where the Goods have been tampered with, improperly altered, repaired or maintained, installed or connected or subjected to misuse (in each case otherwise than as a result of the Company's own acts or omissions). The Buyer shall at its own cost return the Goods to the Company for inspection.
- C The Company's warranty shall only apply in respect of matters whereof the Buyer gives written notice within 12 months after delivery of the Goods, any repaired or replacement Goods will be covered by the same warranty for the unexpired portion of the original 12 month period, whichever is applicable, after which any claim in respect thereof shall be absolutely barred.
- D The Buyer will analyse all aspects of the application and follow applicable industry standards, specifications, and other technical information provided with the Goods.
- E If the Company provides Goods based upon data or specifications provided by the Buyer, the Buyer is responsible for determining that such data and specifications are suitable and sufficient for all applications and reasonably foreseeable uses of the Goods.
- F Written permission must be obtained from the Company prior to attempting any repair or rectification by the Buyer and any such attempt which has not been so authorised shall render the warranty invalid.
- G The warranty shall extend only to items manufactured by the Company.
- H All items must be returned to the Company for inspection and examination in the event of a warranty claim.
- I The Buyer must give notice in writing to the Company during the warranty period within a reasonable time of discovery (and within 28 days of the defect becoming apparent in any event) that some or all of the Goods do not comply with the warranty set out in condition.
- J The Company is given a reasonable opportunity of examining such Goods; and Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost, the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.



13/ LIABILITY

- A The Company does not purport to limit or exclude its liability (if any) to the Buyer:
- Ai* for breach of the Company's obligations arising under Section 12 Sale of Goods Act 1979 or Section 2 Supply of Goods and Services Act 1982;
 - Aii* for personal injury or death resulting from the Company's negligence;
 - Aiii* under Section 2(3) Consumer Protection Act 1987;
 - Aiv* for any matter in respect of which it would be illegal for the Company to limit or exclude, or to attempt to exclude or limit, its liability; or
 - Av* for fraud or fraudulent misrepresentation.
- B The Company's entire Liability for any late delivery of Goods and/or failure to deliver the Goods will be as set out in this condition and the Company will have no other Liability for any such late delivery or performance or failure to deliver or perform.
- C The Company's maximum aggregate Liability will be limited to the price payable by the Buyer pursuant to the Contract under which the Liability arises.
- D The Company will have no Liability to the Buyer for any:
- Di* loss of profit (whether direct, indirect or consequential);
 - Dii* loss of use, loss of revenue, loss of production or loss of business (in each case whether direct, indirect or consequential);
 - Diii* loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct, indirect or consequential);
 - Div* loss of anticipated savings or loss of margin (in each case whether direct, indirect or consequential);
 - Dv* loss of bargain (whether direct, indirect or consequential);
 - Dvi* liability of the Buyer to third parties (whether direct, indirect or consequential);
 - Dvii* loss of use or value of any data or software (whether direct, indirect or consequential);
 - Dviii* wasted management, operational or other time (whether direct, indirect or consequential);
 - Dix* wasted expenditure incurred in reliance upon the anticipated performance of the Contract by the Company (whether direct, indirect or consequential). For the avoidance of doubt, the term "wasted expenditure" does not include sums paid by the Buyer to the Company pursuant to the Contract;
 - Dx* loss or damage arising out of any failure by the Buyer to keep full and up to date security copies of any computer program and data held or used by or on behalf of the Buyer (whether direct, indirect or consequential); or
 - Dxi* indirect, consequential or special loss
 - Dxii* Without prejudice to the foregoing, if called upon so to do by the Buyer in writing the Company shall use its reasonable endeavours (but without spending undue time and cost and only where practicable) to assign to the Buyer the benefits of any warranty, guarantee, indemnity, claim, privilege or other rights which the Company may have from or against manufacturers or suppliers of any goods incorporated in the Goods in relation to the quality, condition or description of such goods.

14/ CONFIDENTIALITY

- A A party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party, its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain.
- B The receiving party shall only disclose such confidential information to those of its employees, agents, and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this condition as though they were a party to the Contract.
- C The receiving party may also disclose such use of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- D This Confidentiality condition shall survive termination of the Contract

15/ INTELLECTUAL PROPERTY (IPR)

- A The Buyer acknowledges that all intellectual property rights relating to the Goods provided by the Company remain the property of the Company.
- B This condition shall survive the expiry or termination of the Contract for whatever the reason.

16/ NOTICES

- A Unless otherwise provided in writing, any written communication or notice under a Contract shall be made or given by sending the same by:
- Ai* ordinary prepaid first-class letter post, airmail post, mail delivery service providing proof of delivery to; or
 - Aii* by being delivered to or left at the relevant address,
- B which in the case of the Company will be its then current address and in the case of the Buyer will be its last known address, and if given by any of the methods set out in this condition, such communication or notice shall be deemed to be served two days after the date when posted, such communication or notice shall be deemed to be served at the time delivered or left at the relevant address.

17/ LAW AND JURISDICTION

- A These Terms and Conditions, any Contract formed pursuant hereto and any non-contractual obligations arising out of or in connection with these Terms and Conditions and/or any such Contract shall be governed by the law of England and Wales.
- B The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with these Terms and Conditions and any Contract formed pursuant hereto (including in relation to non-contractual obligations).
- C If any part of these Conditions is held by any Court or Tribunal to be unenforceable or void this shall not affect the remainder of this Contract which shall continue in full force and effect.
- D A person or third party who is not party to the Contract shall not have any rights to enforce its terms.



18/ WAIVER

- A Any failure by the Company to enforce any or all of its rights provided herein shall not be construed as a waiver of such rights.

19/ ARBITRATION

- A In the event of a dispute which cannot be resolved by negotiation between the Buyer and the Company, the dispute shall be referred to a single arbitrator acceptable to both parties, of if agreement cannot be reached, to the President for the time being of the Law Society within the terms of the Arbitration Act 1996 and any subsequent amendments to it.

20/ DRAWINGS AND SPECIFICATIONS

- A All descriptions, drawings, illustrations, particulars of weights and measures, ratings, standards, statements, details, specifications or other descriptive matter, whether or not contained in the Contract, are approximate only. Where Goods are supplied by the Company to the Buyer in accordance with the Buyer's design or specification or where the Company shall design items not within its standard range of products at the Buyer's request no warranty shall be given or implied as to the suitability of such Goods unless the Buyer has made known to the Company the particular purpose for which the Buyer is proposing to use the Goods, in which case the Company's warranty shall apply.

21/ FREE ISSUE ITEMS

- A Buyer free issue materials and components must be in accordance with applicable standards and delivered to the Company at the Buyers cost.
- B Free issue items must be received within an agreed period, any delay regarding these items is the Buyers responsibility and the Company is not responsible for additional delays caused.
- C The Buyer is responsible for ensuring all free issue items are assessed and accepted prior to receipt at the Company.

22/ RETENTION OF TITLE

- A The Title to the Goods will not pass to the Buyer until the Company has received all payments in full.
- B The Buyer shall keep and retain the Goods as bailee for and on behalf of the Company until the Company has received full payment for the Goods.
- C The Buyer shall fully insure the Goods at their replacement value against all commercial risks.
- D The Goods shall be stored safely and securely by the Buyer.
- E The Buyer shall ensure that the Goods remain readily identifiable as the Company's property, and not destroy, deface, or obscure any identifying mark or packaging relating to the Goods.
- F The Buyer shall produce a copy of the insurance certificate to the Company on request.
- G The Buyers right to possession or Title of the Goods shall be Immediately terminated If there Is:
 - Gi* Any breach in the terms of the Contract
 - Gii* Any action in consequence of debt
 - Giii* Any arrangement with creditors
 - Giv* Any resolution for voluntary or compulsory winding up
 - Gv* Any notice, court order or petition related to administration or liquidation
 - Gvi* Any appointment of receivers
 - Gvii* Any execution against the Buyers property, legal or equitable
- H If the Buyers right to possession or Title passes then the Company may repossess the Goods and enter the Buyer's premises, or third party premises where the goods are stored, to remove the Goods.