



Bluemac (Manufacturing) Ltd  
Dungannon Business Park  
Killyliss Road  
Dungannon  
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BT70 1RP  
Email: [sales@bluemacmanufacturing.com](mailto:sales@bluemacmanufacturing.com)  
Web: [www.bluemacmanufacturing.com](http://www.bluemacmanufacturing.com)

## Terms & Conditions

### 1. Definitions:

“Business Day” means a day (other than a Saturday, Sunday or public holiday) when banks in Belfast are open for business;

“Contract” means the contract between the Company and the Customer for the sale and purchase of the Goods and/or supply of the Services in accordance with these terms and conditions;

“Order” means the Customer’s order for the Goods and/or Services, as set out in the Company’s purchase order form or tender, in the Customer’s written acceptance of the Company’s quotation or in the Customer’s purchase order form, as the case may be;

“The Company” means Bluemac (Manufacturing) Ltd (NI618242) whose registered office is at Dungannon Business Park, Killyliss Road, Dungannon, BT70 1RP

“The Customer” means the person, firm or company whose Order for goods referred to in the Company quotation, tender, invoice or advice note (“Goods”) and/or services referred to in the Company quotation, tender, invoice or advice note (“Services”) is accepted by the Company.

### 2. General:

(i) All quotations and tenders are made, Orders accepted and Goods and Services delivered by the Company subject to the following terms and conditions of business and no addition or variation shall apply unless agreed by a director of the Company upon a form issued by the Company and specifically express to constitute such addition or variation. All Orders from the Customer shall be deemed to be an offer by the Customer to purchase Goods and/or Services subject to these Terms and Conditions. If no purchase order form shall have been issued by the Company, the Customer shall, upon delivery of the Goods and/or Services, be deemed to have given final and absolute acknowledgement of its acceptance of these terms and conditions. The Customer hereby acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.

(ii) No other terms and conditions shall apply notwithstanding and provisions to the contrary which may appear on the Order form or purchase order or any other document issued by the Customer, whether or not the same shall be signed by or on behalf of the Company and whether issued either prior or subsequent to the acceptance by the Company of the Customer’s Order.

(iii) The Order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these terms and conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable specification are complete and accurate. Acknowledgement of receipt of a Customer’s Order or other communications by the Company in connection therewith shall not constitute acceptance of that Order for contractual purposes. Only delivery to the Customer of an [acceptance notice] signed by a duly authorised officer of the Company (or, if earlier, delivery of the Goods or provision of the Services) shall constitute the Company’s acceptance of the Customer’s Order, at which point the Contract shall come into existence.

(iv) Any samples, drawings, descriptive matter and any descriptions or illustrations contained in the Company’s catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.

(v) Once the Contract has been formed, it may not be cancelled by the Customer except with the written agreement of the Company and on terms that the Customer shall indemnify the Company in full against all losses (including loss of profit), costs, damages, charges and expenses incurred by the Company as a result of such cancellation.

### 3. Prices:

(i) Prices are quoted ex-works (if not stated otherwise) and are those ruling at the date of quotation, tender or Order



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acknowledgement (whichever is later).

(ii) Any quotation given by the Company to the Customer shall, unless earlier withdrawn or unless the quotation otherwise states, be open for acceptance for a period of 30 days commencing on the date of the quotation.

(iii) [The Company reserves the right to vary its prices at any time and in the event of a price variation between the date of quotation, tender or Order acknowledgement and delivery of the Goods and/or Services, the Customer shall pay the new price of the Goods and/or Services ordered provided that the Company shall have notified the Customer of such variations prior to despatch of the Goods to the Customer or collection of the Goods by the Customer as the case may be.]

(iv) Prices quoted are net of all taxes, imports and levies which are or may from time to time be levied by any government, statutory or local authority upon the sale of the Goods agreed to be sold to the Customer and such additions (if any) shall be charged at the rates prevailing at the date of the invoice.

(v) Prices are quoted are net of packaging, transportation and insurance costs, which shall be for the account of the Customer if the Company agrees in advance in writing to provide or arrange for transport of the Goods for the Customer.

(vi) Subject to condition 3(ii), the price for the Goods and/or Services shall be the price set out in the Company's purchase order, invoice or quotation.

## **5. Payment:**

(i) Payment for Goods will be upon presentation of invoice unless otherwise notified to the Customer. Invoices shall be raised upon acceptance of the Order by the Company. Time for payment is of the essence. No payment shall be deemed to have been received until the Company has received cleared funds.

(ii) Payment for reconditioning and installation will be upon presentation of invoice unless otherwise notified to the Customer.

(iii) The Customer shall (unless otherwise agreed in writing by the Company) pay the Company a deposit of **30%** on Order. A further **60%** will be paid on delivery of the Order. A final **10%** shall be paid upon commissioning of the Goods.

(iv) If the Customer fails to make any payment due to the Company under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 3% per annum above HSBC plc's base rate from time to time. Such interest shall accrue daily until actual payment of the overdue amount, whether before or after judgment.

(v) The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may, at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.

(vi) All payments due to the Company under the Contract shall become due immediately upon termination of the Contract notwithstanding any other provision of the Contract.

## **6. Title:**

(i) The Goods shall remain the sole and absolute property of the Company as legal and equitable owner until payment has been received by the Company (in cash or cleared funds) for all Goods and Services supplied under this or any Contract between the parties.

(ii) Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain identifiable as the Company's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Company immediately if it becomes subject to any of the events listed in condition 18; and



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- (e) give the Company such information relating to the Goods as the Company may require from time to time.
- (iii) If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in condition 18, then, without limiting any other right or remedy the Company may have, the Company may at any time:
  - (a) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- (iv) If any Goods are incorporated in other goods before such payments the property in the whole of such goods shall be and remain with the Company until payment under the Contract and any other contract between the Company and the Customer is made in full.
- (v) Payments under the Contract and any other contract between the Customer and the Company shall become due immediately upon the commencement or any act or proceeding in which the Customer's solvency is involved.
- (vi) The Customer is licensed by the Company to agree to sell on the Company's Goods subject to the express condition the entire proceeds thereof and held in trust for the Company and they are not mingled with the other monies or paid into any overdrawn bank account.
- (vii) The Customer shall insure the Goods for their full replacement value.

## **7. Delivery:**

- (i) The Company will use its best endeavours to comply with dispatch collection and delivery dates for the Goods and performance or completion dates for the Services, but such dates are estimates only and are not guaranteed neither shall they be under any circumstances be deemed to be a term or condition of the Contract. If no dates are so specified, delivery of the Goods and/or completion of the Services will be within a reasonable time. Time of delivery is not of the essence. The Company shall not be liable for any delay or failure in delivery of the Goods and/or Services that is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate instructions that are relevant to the supply of the Goods and/or Services. The Company shall accept no liability of whatsoever nature for failure to meet such dates and such failure shall not entitle the Customer to repudiate or cancel the Contract.
- (ii) Subject to the other provisions of these terms and conditions, the Company will not be liable for any loss (including loss of profit) costs or damages, charges or expenses caused directly or indirectly by the provision of or any delay in the delivery of the Goods and/or Services. The Customer must accept delivery of the Goods and Services and pay for them in full notwithstanding any delay.
- (iii) Delivery of the Goods shall be ex-works to the Customer or the designated carriers unless otherwise agreed in writing by the Company and the risk in the Goods shall pass to the Customer on delivery to the Customer or such carrier as the case may be.
- (iv) Any liability of the Company for failure to deliver the Goods and/or Services shall be limited to replacing the Goods within a reasonable time (if applicable) or issuing a credit note at the pro-rata Contract rate against any invoice raised for the Goods and/or the Services (as appropriate).
- (v) If the Customer fails to take delivery of the Goods within three Business Days of the Company notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract:
  - (a) delivery of the Goods shall be deemed to have been completed at 9.00am on the third Business Day after the day on which the Company notified the Customer that the Goods were ready; and
  - (b) the Company may store the Goods until delivery takes place in accordance with condition 9, and charge the Customer for all related costs and expenses (including insurance).
- (vi) Performance of the Services will only take place at the place agreed in advance in writing by the Company.



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## **8. Carriage and Packaging:**

- (i) The Company will not be liable for any shortages in delivery unless it shall receive written notification from the Customer within 7 days from the date of delivery of the Goods ex-works to the Customer or, in case of delivery ex-works to a carrier on behalf of the Customer within 7 days of receipt of the Goods by the Customer by the carrier.
- (ii) Unless otherwise agreed in writing cases and other packaging materials when charged for will be credited if returned carriage paid and in good condition to the Company's works within two months of the date of delivery ex-works.

## **9. Storage:**

- (i) If for any reason the Customer is unable to accept the Goods at the time when the Goods are due and ready for delivery, in accordance with condition 7, the Company shall (if its storage facilities permit) store the Goods and take reasonable steps to safeguard and reserve them until their actual delivery and the Customer shall be liable to the Company to the cost (including insurance) of such storage.
- (ii) Storage of the Goods shall be at the Customer's own risk.
- (iii) If the Customer shall fail to take delivery of the Goods within 28 days of notification that they are ready for delivery or having been stored that storage facilities are no longer available, the Customer shall be liable to the Company for any loss or damage (including profits) which the Company shall suffer in consequence of the Customer's failure to take delivery of the Goods.

## **10. Patents:**

The Customer shall indemnify the Company against all costs, claims, damages or other expenses suffered or incurred by the Company in connection with any claim for actual or alleged infringements of patent or registered design, copyright or other intellectual property rights arising out of the manufacture or sales of Goods and/or supply of the Services in accordance with the Customer's specifications. This condition shall survive termination of the Contract, howsoever arising.

## **11. Company's and Customer's Property:**

- (i) Any machinery, materials or other property of the Company delivered by it to the Customer's premises shall be at the absolute risk of the Customer whilst on the Customer's premises.
- (ii) The handing over by the Customer of any vehicle or machine to the Company or its employee, servant or agent whether as the premises of the Customer of the Company or elsewhere shall be deemed to constitute express authority for the Company, its employees, servants or agents to drive and operate such vehicle or machinery.

## **12. Installation:**

- (i) [Any installation or other work carried out in connection with the Goods at the Customer's premises shall be subject to separate charges in addition to the purchase price of the Goods and the Customer agrees to indemnify the Company, its employees, servants or agents in respect of all damage or injury, action, suits, claims, demands, costs or charges incurred in connection with such installation and work however the same shall be occasioned.]
- (ii) Notwithstanding installation by the Company of the Goods, delivery shall be deemed to be ex-works and the risk in the Goods will pass upon such delivery in accordance with condition 7 above.

## **13. Design and Specifications:**

The Company reserves the right at any time to make modification in design or specification of the Goods or Services without giving prior notice to the Customer.



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#### **14. Descriptive Literature:**

Descriptions, illustrations and other information contained in catalogues, price lists and other literature issued by the Company or on its behalf are intended to act as a general guide and description of goods and services. These do not constitute express or implied representations as to the fitness or suitability of the Goods or Services for any purpose and the Customer shall not be entitled so to treat them as and they shall accordingly form no part of any Contract governed by these terms and conditions.

#### **15. Force Majeure:**

The Company shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond the Company's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, accident to or breakdown of plant or machinery, inability to obtain or delay in obtaining supplies of adequate or suitable materials, fuels, parts, machinery or labour, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

#### **16. Warranty:**

- (i) Goods sold by the Company are warranted free from material defects in materials and workmanship for a period of 12 months (or 2000hrs of use– whichever comes first) of delivery to the Customer.
- (ii) If upon delivery to and inspection by the Customer or (where relevant) upon completion of their installation by the Company the Goods are found to be defective, the Company will repair or (at its opinion) offer replacement parts for the defective Goods if the Customer shall, in the case of Goods delivered ex-works, have returned them to the Company within 6 weeks of failure. If the Company complies with condition 16(ii) it shall have no further liability for any defect in the quality of the Goods.
- (iii) The Company shall not be liable for any defect in the quality of the Goods unless the Customer gives written notice of the defect to the Company within 7 days of:
  - (a) the date the Customer receives the Goods (where the defect would be apparent to the Customer upon a reasonable inspection); or
  - (b) the date when the Customer knew or ought reasonably to have known of the defect (where the defect would not be apparent to the Customer upon a reasonable inspection), and the Company (in each case) is given a reasonable opportunity after receiving the notice of examining the Goods and the Customer (if asked to do so by the Company) shall transport the Goods to the Company's place of business for the examination to take place there.
- (iv) The Company's warranty shall not apply to any Goods:-
  - (a) which have been tampered with in any way outside the Company's premises,
  - (b) which have been stored in unsuitable conditions or an excessive period of time,
  - (c) which have been subject to overloading, misuse, neglect or accident,
  - (d) the quality of which has been impaired as a result of the incorporation of defective materials supplied by the Customer,
  - (e) which were sold second hand in which other defects have been brought to the Customer's attention or if the Customer has carried out an examination which ought reasonably to have revealed any defects,
  - (f) which have not been manufactured by the Company but which are sold by the Company with the benefit of the manufacturers' warranty, or
  - (g) which the Customer has continued to use after notifying the Company that they are defective,
  - (h) where the defect has arisen because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice,
  - (i) the defect arises as a result of the Company following any drawing, design or specification supplied by the Customer,
  - (j) the Customer alters or repairs such Goods without the written consent of the Company, or



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- (k) the defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal working conditions.
- (iv) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- (v) Nothing in this warranty shall be deemed to prejudice such statutory rights of a Customer as shall not in law be capable of variation.
- (vi) [The Company warrants that the Services will be carried out with reasonable skill and care

#### **17. Limitations of Company's Liability:**

- (i) Nothing in these terms and conditions shall limit or exclude the Company's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - (d) defective products under the Consumer Protection Act 1987; or
  - (e) any matter in respect of which it would be unlawful under applicable law for the Company to exclude or restrict liability.
- (ii) Subject to condition 17(i):
  - (a) the Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - (b) the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods and/or Services in respect of which the liability has arisen.
- (iii) All warranties, conditions or other terms implied by statute or common law (except the warranty implied by section 12 of the Sale of Goods Act 1979) are, save as expressly set out herein and to the fullest extent permitted by applicable law, excluded from the Contract.

#### **18. Default or Insolvency of Customer:**

- (i) If the Customer becomes subject to any of the events listed in condition 18(ii), the Company may terminate the Contract with immediate effect by giving written notice to the Customer.
- (ii) For the purposes of condition 18(i), the relevant events are:
  - (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of the Insolvency (Northern Ireland) Order 1989, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of the Insolvency (Northern Ireland) Order 1989, or (being a partnership) has any partner to whom any of the foregoing apply;
  - (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more companies or the solvent reconstruction of the Customer;
  - (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - (d) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
  - (e) (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
  - (f) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
  - (g) (being an individual) the Customer is the subject of a bankruptcy petition or order;



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- (h) A creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 18(i)(a) to (h) inclusive;
  - (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - (k) the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- (iii) Without limiting its other rights or remedies, the Company may suspend provision of the Goods and/or Services under the Contract or any other contract between the Customer and the Company if the Customer becomes subject to any of the events listed in condition 18(i)(a) to (k), or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due day for payment or is otherwise in breach of any of its obligations under the Contract.
- (iv) On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest.
- (v) Termination of the Contract, however arising, shall not affect any of the parties' rights or remedies, obligations and liabilities that have accrued as at termination.
- (vi) Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

#### **19. Notice:**

Any notice given in respect of the Contract shall be delivered to the address of the receipt appearing on the contract documents (or such other addresses as shall be notified in writing and delivered by prepaid post or teletext).

#### **20. Assignment, Sub-Contracting, etc.**

Neither shall the Company nor the Customer be entitled to assign its rights or obligations under any Contract PROVIDED THAT the Company may at its absolute discretion and without prior consent employ such sub-contractors as it may deem suitable.

#### **21. Severance:**

- (a) If any provision or part-provision of the Contract is or become 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 condition shall not affect the validity and enforceability of the rest of the Contract;
- (b) If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

#### **22. Northern Irish Law:**

Every Contract to which these terms and conditions shall apply shall be construed in accordance and government in all respects by the law of Northern Ireland and the Company and the Customer agrees to submit to the exclusive jurisdiction of the Northern Ireland Courts.

#### **23. Waiver**

A waiver by the Company of any breach of the Contract by the Customer or a delay by the Company in enforcing any of its rights will not be construed as a waiver of its rights or any subsequent breach of the same or any other provision.