



<b>Document</b>	SI Terms and Conditions
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<b>Position:</b>	Managing Director

The following terms and conditions ("the Conditions") are the terms on which Sheppard Innovations Ltd ("SI") sells to other businesses or individuals ("Customer") and supersede all other terms and conditions used by SI.

## 1 ORDERS, PRICE AND PAYMENT

- 1.1 No contract shall come into existence until SI confirms the order for Services, Goods or other Deliverables in writing.
- 1.2 The price (exclusive of VAT) for the Services, Goods or other Deliverables ("the Price") shall be the quoted price of SI and payment of the Price shall be made by the Customer within 30 days from the invoice date or within the agreed payment time confirmed on the credit agreement ("the Due Date") of the invoice for the Services, Goods or other Deliverables and time for payment shall be of the essence.
- 1.3 If any sum payable under this agreement that is not under query and not paid by the Customer on the due date for such payment then without prejudice to SI's other rights SI reserves the right to charge interest as defined by the 'Late Payment of Commercial Debts (Interest) Act 1998'. Such interest together with all the Creditor's reasonable costs and expenses of recovering the late payment and interest shall be paid by the Customer on demand made by SI. In the event of late payment SI will seek legal counsel to recover the debt.
- 1.4 If any sum payable under this agreement is not under query and is not paid by the Customer on the due date for such payment then without prejudice to SI's other rights and remedies, SI reserves the right to withhold services provided as detailed in the quote/proposal. All Reports, Drawings, Digital Data and Goods remain the property of SI until the contract price has been paid in full. If payment is not forthcoming within the agreed payment terms, then all Reports (or their contents) and/or Drawings for whatever purpose and/or Digital Data will be subject to withdrawal and be made invalid from that due date, until suitable resolution of payment has been made.
- 1.5 While SI will endeavour to maintain prices it reserves the right to increase prices proportionately to increases in the cost of labour or materials arising between quotation and completion. SI will not raise costs mid-contract without prior agreement with the client and a new PO issued to cover the additional cost. Price to be confirmed on receipt of purchase order before the service commences.
- 1.6 In the event of the suspension of the work due to any act of omission of the Customer, any prices quoted may be increased by SI to cover any extra expenses incurred by it on this or any other contract by reason of such suspension.
- 1.7 All prices are usually quoted on the basis of the work being carried out during the normal hours of operation between 8.00 am and 5.00 pm.
- 1.8 In the event of suspension of work as described in clause 1.6 above for a period of 30 days or more SI shall be entitled to invoice the Customer for work done prior to suspension of work. Such invoicing shall not affect the remaining performance of the contract or liability of the parties, except as may be agreed in writing by them. SI must get prior agreement in writing from the client and a new PO issued to cover the additional cost before re-commencing the service.

- 1.9 Any cancellation of any order by the Customer must be in writing and agreed as cancelled also in writing by SI. In case of any cancellation, the Customer may be released from its obligations under the contract after payment of a sum for reasonable liquidated damages.
- 1.10 Once costs in excess of £5,000 have been accrued and where the expected end date is to be in excess of 30 days later, SI reserves the right to enforce stage payments. This will be agreed at quotation stage.

## **2 GOODS, SERVICES AND DELIVERABLES**

- 2.1 The description and quantity of the Goods to be sold ("the Goods") shall be as set out in the quotation provided by SI to the Customer ("the Quotation").
- 2.2 The description and quantity of the Services to be provided ("the Services") shall be as set out in the quotation provided by SI to the Customer ("the Quotation").
- 2.3 The description and quantity of the Deliverables to be Provided ("the Deliverables") shall be as set out in the quotation provided by SI to the Customer ("the Quotation").

## **3 DELIVERY OF GOODS & SERVICES**

- 3.1 Whilst delivery and completion dates are given in good faith based upon information available to SI at the time of quotation or tender, such dates are not guaranteed and SI accepts no liability for delay (as per Section 8) in delivery or completion and no delay (as per Section 8) shall entitle the Customer to reject any delivery or any further instalment or part of the order or to repudiate the contract or the order or any part thereof or to claim any damages or compensation in respect of the said delay. The delivery timetable will be agreed during order acknowledgement, at which time the Customer can cancel the order if the timescales are not suitable.
- 3.2 In the case of non-delivery by SI's suppliers, SI shall be at liberty to cancel or suspend the contract without incurring any liability for any loss or damage resulting there from.
- 3.3 All Quotations and tenders are Ex Works unless otherwise stated and are subject to a firm order being placed within 10 working days unless otherwise stated. The acceptance of the order by SI will constitute a contract subject to these conditions. Any variation of the contract must be in writing and signed by SI and the Customer.
- 3.4 If firm prices are not stated in the Quotation or tender then the contract price is based upon the cost of the materials, labour, transport, fuel, statutory obligations at the time of the tender or Quotation and the application of other relevant factors, and if between that date and the date of actual delivery, variation either by rise or fall shall occur in these costs, then the contract price shall be amended to provide for these variations. The order must be accompanied by sufficient information to enable SI to proceed with the order forthwith.

## **4 ACCEPTANCE**

- 4.1 SI must be advised in writing by recorded delivery of any defects in the Goods as soon as they are discovered by the Customer who shall be deemed to have accepted the Goods if they have not been rejected on or before the seventh day after delivery. The Customer shall not be entitled to reject the Goods in whole or in part thereafter.
- 4.2 SI must be advised in writing by recorded delivery of any problems with the Services or other Deliverables provided as soon as they are discovered by the Customer who shall be deemed to have accepted the Deliverables if they have not been rejected on or before the seventh day after delivery. The Customer shall not be entitled to reject the Deliverables in whole or in part thereafter.

## **5 TITLE AND RISK**

- 5.1 The Goods and Deliverables shall be at the risk of the Customer following delivery and, notwithstanding delivery, title in the Goods and/or Deliverables shall not pass to the Customer until the Customer has made payment of all sums owing to SI, failing which SI shall have the right to

repossess or otherwise recover the Goods and/or Deliverables. Until title passes the Customer shall hold the Goods and/or Deliverables as bailee for SI and shall store or mark them so that they can at all times be identified as the Goods and/or Deliverables of SI.

## 6 RETURN OF CUSTOMER PROPERTY

- 6.1 Unless otherwise agreed in writing, delivery and collection is Ex Works. For the avoidance of doubt, this means that the Customer is responsible for all costs and risks associated with both delivery and collection of their property to and from SI's premises.
- 6.2 Where the Customer does not remove their property on completion, SI shall notify the Customer of availability for collection. If the Customer fails to collect within thirty (30) days of the date of notification SI will arrange packing and transport for the items at the Customer's expense. This service would also be subject to a handling charge of 50% of transport costs, subject to a minimum of £75.00.
- 6.3 If the Customer requires destruction or disposal of their property as they do not require the property back, the Customer will advise SI in writing. All disposal costs incurred shall be at the Customer's expense.
- 6.4 In the event that SI deems it appropriate to withdraw an existing Drawing and/or Report, upon demand the Customer shall return all Drawings and/or Reports including any annexes related to the Services provided. As soon as is reasonably practicable, the Customer shall also remove any reference to the Services provided from the Customer's publicity material, stationery and any other documents that the Customer may issue from time to time to its own clients.

## 7 COMPLETION

- 7.1 Time shall not be of the essence in relation to completion. All time scales quoted are the best available estimates, based on the information available at the date of the Quotation and are subject to revision during the course of the work.

## 8 LIABILITY FOR DELAY, CANCELLATION OR SUSPENSION

- 8.1 In the case of all Contracts time shall not begin to run until SI is in receipt of all items and information necessary to carry out the work in addition to a written purchase order being provided. Receipt of a PO against a valid Quotation means that the terms laid out in the Quotation have been agreed too.
- 8.2 SI shall have no liability for delay or non-performance caused by Force Majeure. "Force Majeure" means industrial dispute or any circumstances beyond SI's reasonable control including but not limited to Acts of God, war, civil unrest, riot, strike, lock-out, acts of civil or military authorities, fire, flood, earthquake, pandemic, shortage of supply or any act or omission of the Customer (such as the Customer's failure to submit necessary materials or information within a reasonable time of being requested to do so).
- 8.3 Subject to 8.2, should the Customer suffer material loss as a direct result of SI's delay, the Customer may give notice to SI to complete the work within a reasonable period and should SI fail so to complete the Customer's sole remedy shall be the right to terminate the Contract.
- 8.4 In the event that the Customer requires the work to be undertaken outside the United Kingdom, SI reserves the right to terminate this Contract if, in the sole opinion of SI, there arises a potential or actual situation of civil unrest, disobedience or war in the region in which the work is to be performed, which poses an unacceptable risk to the staff and/or subcontractors of SI and/or the Customer. In the event of such termination, SI shall have no liability to the Customer, howsoever arising, for the work not being undertaken or completed.

## 9 TERMINATION LIABILITY

- 9.1 In the event that the Customer terminates or suspends services whilst under an Order, the Customer's termination liability ("Termination Liability") shall be as follows:  
If less than 5 working days' notice of termination or suspension is provided, up to 100 percent of the price for the confirmed and allocated test slot or service terminated/suspended may be applied.

- 9.2 Termination Liability is the maximum liability of the Customer and in no event shall the Termination Liability exceed the agreed contractual price for the service terminated/suspended.
- 9.3 If the Customer or any of its Affiliates can utilise the capacity contracted under the terminated/suspended services for other business then there shall be no Termination Liability whatsoever.

## 10 LIMITATION OF LIABILITY

- 10.1 Save in respect of personal injury or death due to any negligence, SI shall not be liable to the Customer in respect of any loss suffered by the Customer due to any defect in the Goods.
- 10.2 SI shall indemnify the Customer for all losses arising in respect of direct damage to the Customer's property by the negligence of its employees under the terms of this Agreement.
- 10.3 The Customer shall indemnify SI for all losses arising in respect of direct damage to SI's property as a result of negligence by the Customer's employees or as a result of a breach of the Customer's obligations to SI.
- 10.4 Except as expressly stated in these terms & conditions, in no event will either party be liable to the other Party for any loss of or damage to profits, revenue, business goodwill or third party claims or loss of contracts arising out of or in connection with the work carried out (whether arising for breach of contract or by way of indemnity, tort, including but not limited to negligence) and each party specifically acknowledges that any such liability is hereby expressly excluded.
- 10.5 The total liability of SI under or in connection with this Agreement (whether arising for breach of contract or by way of indemnity, tort, including but not limited to negligence) shall not exceed the value of the contract.

## 11 REPORTS, DRAWINGS AND MEASUREMENTS

- 11.1 Any Reports, Drawings, measurements or recommendations given in Report Deliverables are correct to the best of SI's knowledge at the time and on the basis of the instructions and information provided by the Customer. SI shall not be liable for any claims, actions or consequential damages suffered by the Customer or any third party by use of such drawings or measurements if the information or instructions provided by the Customer is false.

## 12 COPYRIGHT

- 12.1 The rights either under Letters Patent, Registered Design, Copyright or otherwise to any inventions, designs, drawings or information produced or acquired in the performance of this contract shall vest in and shall remain the property of SI.

## 13 CONFIDENTIALITY

- 13.1 Both Parties agree to keep confidential all matters relating to this Contract and any other information obtained while on each other's site or in other information that can be considered to be of a sensitive nature not specifically related to the Contract. This covers every aspect of the relationship between the parties including but not limited to products, studies carried out, methods used, results of the work, the nature and contents of any reports and the existence of the Contract.
- 13.2 The Customer shall not by virtue of this Contract gain any rights in information wholly or partially owned by SI or any third party and used in the execution of this work. All such information shall be treated as confidential by the Customer and shall not be divulged to any other party without the prior written consent of SI.
- 13.3 The above shall not apply to information required by a Court of Law or which:
  - a) is known to the receiving party at the start of contract negotiations;
  - b) is in or comes into the public domain;
  - c) is legitimately obtained from a third party; and/or
  - d) is divulged to a Regulatory or Accreditation Authority as they may require in pursuance of their statutory duties.

## **14 NOTIFICATION OF HAZARDOUS EQUIPMENT**

- 14.1 Where services are to be carried out at SI's workplace the Customer shall, prior to delivery, notify SI of any actual or potential health and safety hazards whether inherent in, or arising from, the present condition of such equipment, with particular reference to the proposed work programme.
- 14.2 The Customer assumes full liability for any accident or damage to persons or property on SI's premises caused by or arising out of the condition or nature of the equipment not disclosed to SI.
- 14.3 All electrical apparatus shall be suitably labelled to indicate that it complies with the requirements of the Electricity at Work regulations.

## **15 SET OFF AND COUNTERCLAIM**

- 15.1 The Customer may not withhold payment of any invoice or other amount due to SI by reason of any right of set-off or counterclaim which the Customer may have or allege to have or for any reason whatsoever.

## **16 GENERAL**

- 16.1 If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.
- 16.2 SI may without the consent of the Customer sub-licence its rights or obligations or any part of these Conditions.
- 16.3 The headings in these Conditions are for ease of reference only and shall not affect the interpretation of any of the Conditions.

## **17 CONTRACT**

- 17.1 Notwithstanding any other provision of this agreement, nothing herein shall confer or is intended to confer a benefit on any third party for the purpose of the Contract (Rights of Third Parties) Act 1999 or for any other purpose.

## **18 ENTIRE AGREEMENT**

- 18.1 Each of the parties agrees that save in respect of statements made fraudulently it shall have no remedy in respect of any untrue statement upon which it relied in entering this Agreement and that its only remedies shall be for breach of contract.

## **19 NON-SOLICITATION**

- 19.1 All Parties agree during the period of this Agreement and for twelve months after its conclusion not directly nor indirectly to solicit for employment any of the staff of the other Parties without the prior written consent of the other Party. Where such employment is offered and accepted then the offering Party will pay to the other Party a sum equal to the current annual salary cost of the employee concerned.

## **20 GOVERNING LAW AND JURISDICTION**

- 20.1 The laws of England and Wales shall govern this Agreement and the parties hereby submit to the jurisdiction of the courts of England and Wales.