

## STANDARD TERMS AND CONDITIONS

01/12/2017

### 1. Definitions

- 1.1. "Contractor" means the Company issuing the purchase order associated with these terms and includes its successors in title and assignees.
- 1.2. "Purchase Order" means this document together with these Purchase Order Conditions and all other documents, provisions, requirements, prices and obligations attached herewith or identified or referred to herein.
- 1.3. "Goods" means the materials, goods, plant, equipment and/or services which are the subject of the Purchase Order.
- 1.4. "Supplier" means the person to whom the Contractor has agreed to acquire the Goods from, which are in part or in whole the subject of the Purchase Order. A Supplier can be an individual, a partnership of any type or any corporate entity.

### 2. Application

- 2.1. These terms and conditions will apply unless Contractor specifies different terms and conditions in its tender or quotation documentation or some other contract entered into by the parties. If different terms and conditions are specified by Contractor those terms and conditions will override the purchase order terms and conditions and will apply instead of these.
- 2.2. Except where conditions 2.1 applies, these terms and conditions apply to every order placed by the Contractor with any Supplier. No terms and Conditions in or attached to any catalogue, invoice or other sales literature or document or tender or dispatch/delivery note which are inconsistent with these terms and conditions or which purport to add to or vary them in any way shall not have any effect unless expressly accepted by Contractor in writing. In the absence of such written acceptance, the Supplier shall be deemed to have withdrawn or waived his terms and conditions and to contract solely on the basis of these terms and conditions and acceptance of goods and/or services shall not constitute or be deemed to constitute acceptance by Contractor of the Suppliers terms and conditions. The contract shall commence and the Supplier will be contractually bound upon the despatch of a purchase order by Contractor.

### 3. PURCHASE ORDER

- 3.1. The Supplier shall ensure that the goods and/or services shall:
  - 3.1.1. correspond with the quantity, type, sort, quality and description set out in the purchase order;
  - 3.1.2. meet the performance standards and dates specified on the purchase order or notified to the Supplier by Contractor;
  - 3.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the supplier or made known to the supplier by Contractor as defined under Clause 4 below.
- 3.2. If the goods and/or services do not comply with the Contractor purchase order and/or instructions, Contractor is entitled at its option to either return the goods at the risk of the Supplier; reject the goods and/or services; require the Supplier to re-perform the services or accept the whole or part of the goods and/or services supplied by the Supplier but without

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prejudice to any rights of Contractor to claim compensation or damages for loss or damage suffered as a result of failure to comply.

- 3.3. If the Supplier fails to deliver the Goods and/or perform the Services by the date specified in the purchase order Contractor shall be entitled to terminate the contract without notice.

### 4. Quality

- 4.1. The Goods shall be of satisfactory quality and compliant with all of the requirements of the Purchase Order and with all applicable British Standards Specifications and British Standards Codes of Practice.
- 4.2. The Goods shall comply with all statutory and other requirements and the Supplier shall indemnify and keep indemnified the Contractor from and against all or any breach or non-compliance with any such requirements.
- 4.3. Where there are no applicable specifications, British Standards Specifications and/or British Standards Codes of Practice the quality of the Goods shall be to the approval of the Contractor.
- 4.4. Where and to the extent that the Contractor's quality control and management procedures require stage checks to verify and record compliance with its quality standards the Supplier shall co-operate with the Contractor in implementing those procedures by allowing such access for inspection and testing and/ or providing such documentation as the Contractor may reasonably require.
- 4.5. No inspection or testing nor any waiver of inspection or testing by the Contractor shall release the Supplier from any of its obligations under the Purchase Order.
- 4.6. Where the Purchase Order requires the Supplier to undertake or permit testing the Supplier shall give the Contractor not less than 10 days notice in writing that the Goods are ready for testing and shall provide free of charge such assistance and materials including electricity, fuel, apparatus and instruments as may be necessary for the purposes of the tests.
- 4.7. The Contractor may reject the Goods in whole or in part if inspection and /or testing indicate that they do not accord with the requirements of the Purchase Order or may at its sole discretion require the Supplier to replace the Goods. The Supplier shall be responsible for the costs of any additional testing required as a result of any rejection.
- 4.8. The Goods shall not be deemed to have been accepted until all specified tests have been satisfactorily carried out and all associated documentation has been delivered to the Contractor.
- 4.9. If the Supplier shall find any discrepancy in or divergence between any two or more of the requirements of the Purchase Order it shall immediately inform the Contractor in writing specifying the discrepancy or divergence and the Contractor shall issue instructions with regard thereto.

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- 4.10. The Supplier shall provide free of charge such numbers of copies of test reports, information and other data as are required by the Purchase Order.
- 4.11. The Supplier shall make good by repair or replacement or at the Contractor's sole discretion shall provide financial compensation to the Contractor in respect of any defect which becomes apparent in the Goods up to and including the last day of the Defects Liability Period/Maintenance Period stipulated in the Purchase Order (or within 12 months of delivery of the Goods if no other period is stipulated) and if repairing or replacing the Goods shall bear any costs or expenses reasonably incurred by the Contractor as a consequence of such defects, provided always that the defects are not due to improper storage or use by the Contractor or by any person for whom the Supplier is not responsible and that where the materials or goods have been used or fixed the defects are not such that reasonable examination by the Contractor ought to have revealed them before they were used or fixed.

### 5. Delivery

- 5.1. Goods will be delivered only on normal working weekdays and between the hours of 8.00 am and 4.30pm. Goods delivered outside of these times shall not be accepted unless alternative arrangements have been agreed by the Contractor in advance.
- 5.2. The Goods shall be delivered with all relevant manufacturer's literature and with such further written information as may be necessary for their proper handling, use, processing, storage and maintenance.
- 5.3. In particular where the Goods are subject to the provisions of the Control of Substances Hazardous to Health Regulations the Supplier shall ensure that the Goods are accompanied on delivery by all necessary assessments, data sheets and associated documents.
- 5.4. Where the Goods are delivered utilising a vehicle with a mechanical off loading facility the Supplier shall ensure that the operator of the vehicle is the holder of an appropriate competency certificate (e.g. Construction Industry Training Board for safe operation) and will produce appropriate evidence when reasonably requested so to do by the Contractor.

### 6. PRICE

- 6.1. The price for the goods and/or services shall be the price set out in the purchase order and shall be inclusive but not limited to the costs of packaging, insurance and carriage of the goods and/or provision of the services. No extra charges shall be effective unless agreed by Contractor.
- 6.2. In respect of goods, the Supplier shall invoice Contractor on or at any time after completion of delivery. In respect of services, the Supplier shall invoice Contractor in full, monthly, or quarterly as agreed. The valid VAT invoice must contain the purchase order number and shall include such supporting information required by Contractor to verify the accuracy of the invoice.

### 7. Title, risk and copyright

- 7.1. Title in the Goods shall pass to the Contractor upon delivery.
- 7.2. The risk in the Goods shall remain with the Supplier until delivery.

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- 7.3. Copyright in all drawings, plans, specifications and any other documents provided by or on behalf of the Contractor or producer and such documents shall not be copied or disclosed to any third party by the Supplier without the Contractor's written consent. In the event that such consent is given the Supplier shall impose a similar condition upon the third party. Such documents shall be returned to the Contractor immediately upon receipt of a written request by the Contractor.
  - 7.4. The Supplier shall not without the Contractor's written consent make nor permit to be made for the purposes of publication any visual record or copy of any document associated with the Goods.
  - 7.5. The Supplier shall indemnify the Contractor against any liability, loss, expense, costs, claims or proceedings resulting from any infringement of patent, copyright, registered design or trademark which results from the use of the Goods.
8. Variations
- 8.1. The Contractor's authorised site personnel may at their sole discretion agree with the Supplier's personnel to amend the delivery time(s) stipulated in the Purchase Order.
  - 8.2. The Contractor may without additional charge by the Supplier defer the delivery time(s) stipulated in the Purchase Order for such period or periods as may be necessary if the Contractor is unable to accept delivery of the Goods as a result of civil commotion, local combination of workmen, strike or lockout or of any other cause which could not reasonably be foreseen and which is beyond the Contractors reasonable control.
  - 8.3. The Contractor may by written instruction vary any of the provisions of the Purchase Order and the Supplier shall forthwith comply with any such instruction. The Supplier shall be entitled to be paid for complying with the instruction and a fair valuation of the variation shall be determined by the Contractor initially by reference to the Suppliers original prices and cost information. Where these are inappropriate a fair and reasonable valuation shall be determined by agreement.
  - 8.4. No other variation or amendment to any provision of the Purchase Order shall be permitted.
9. Payment
- 9.1. The Suppliers invoices should be delivered to the Contractor's London office. Each invoice shall identify the Purchase Order number and delivery address to which the invoice relates and shall be supported by a Purchase Order and related delivery note signed by the Contractor.
  - 9.2. Invoices properly issued, supported and received at the Contractor's London office no later than 7 days after the close of the month in which the Goods were delivered to the Contractor shall be paid by the end of the month in which the invoice is received. Invoices received after that date will be paid by the end of the following month without loss of the Contractors entitlement to a discount.
10. Default
- 10.1. The Supplier shall indemnify the Contractor against any liability, loss, expense, costs, claims or proceedings (including loss of profits) arising out of any breach, non-observance or non-

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performance by the Supplier of any of the requirements of the Purchase Order.

10.2. The Contractor reserves the right at its sole discretion to cancel the Purchase Order in whole or in part if at any time after the commencement of the contract the Supplier commits: a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days after receiving notice of the breach; commits a material breach which cannot be rectified, then Contractor may terminate the contract with immediate effect.

10.3. The Contractor may set-off its costs arising from any such default against any amounts otherwise due and payable to the Supplier by the Contractor under the Purchase Order or under any other agreement.

### 11. Assignment

11.1. The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Contractor.

11.2. The Supplier shall not without the written consent of the Contractor assign the benefit of this Purchase Order including assignment of any debt that may arise.

### 12. Severability

12.1. If any provision of the Purchase Order is held by any competent authority to be invalid or unenforceable in whole or in part it shall be severed from the Purchase Order but the validity of all the other provisions shall remain in full force and effect.

### 13. Generally

13.1. The Purchase Order shall be the entire agreement between the Contractor and Supplier and any other documents, provisions, requirements, prices and obligations which are not attached therewith or identified or referred to therein are specifically excluded.

13.2. Contracts (Rights of Third Parties) Act 1999: A person who is not a party to the Contract shall not have any rights under or in connection with it.

13.3. Notwithstanding any other provision of the Purchase Order nothing in the Purchase Order confers nor purports to confer on any person who is not a party to it any right to enforce any of its terms.

13.4. The Purchase Order shall be governed by English law and the parties agree to submit to the non- exclusive jurisdiction of the Courts of England and Wales.

13.5. Notices: Any notice or other communication required to be given under or in connection with this Contract shall be in writing and shall be delivered to the other party mail or email.

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- 13.6. Waiver No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this contract.
- 13.7. No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership of any kind between any of the parties.
- 13.8. Statutory Requirements: the Supplier shall comply with all statutes, orders, regulations or bye laws applicable to the performance of this contract and shall indemnify Contractor against all losses, claims or liabilities, expenses, proceedings or otherwise as a result of the Suppliers noncompliance with the same.
- 13.9. Force majeure: Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent the Supplier from supplying the Goods and/or Services for more than 4 weeks, Contractor shall have the right, without limiting its other rights or remedies, to terminate this Contract with immediate effect by giving written notice to the Supplier.

## 14. INDEMNITY AND INSURANCE

- 14.1. The Supplier shall hold and keep Contractor indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Contractor due to or arising out of the performance of the contract or any breach by the Supplier of these terms and conditions or any term or obligation implied by law or any statutory provision that may be in force from time to time. The Supplier shall at all times have sufficient insurances in place and provide written evidence to Contractor upon request.

## 15. CONFIDENTIALITY

- 15.1. The Supplier shall treat all confidential information belonging to Contractor as confidential and safeguard it accordingly, and shall not disclose any confidential information without the prior written consent of Contractor.