

## Supplier Terms and Conditions

### Definitions

Michael J Lonsdale Limited are hereinafter termed the "Company". The person, firm or company to whom a Purchase Order is addressed is hereafter termed the "Supplier".

"Agreement" means a Purchase Order together with these Supplier Terms and Conditions, to be read as one document and if any conflict arises between these documents, these Terms and Conditions shall take precedence.

"Authorised Person" shall mean a Director or Head of Department for the Company.

"Contract" means any Sub-Contract or Sub-subcontract that the Company has entered into with any party that requires the services of the Company in whole or in part to deliver a project.

"Delivery Address" means the address stated on the Purchase Order for the delivery of goods.

"Insolvent" shall have the meaning ascribed to it in section 113 of the Housing Grants, Construction and Regeneration Act 1996 (or any amendment or re-enactment thereof).

"Instruction" or "Variation" refers to any request for additional items or a revision to the items within the original Purchase Order scope. An Instruction will be issued in the form of a Supplementary Purchase Order or a new Purchase Order with the items required within the instruction.

"Notice" means any Notice as stated within these Terms and Conditions, required to be provided in writing to the Registered Office, unless otherwise stated.

"Production Programme" means a programme proposed by the Supplier and agreed by the Company (such agreement not to be unreasonably withheld) identifying key dates (in accordance with the Programme) in the manufacturing and delivery process of the scope of works required to be carried out by the Supplier.

"Programme" or any reference that can be inferred thereto means any programme that the Company must comply with to ensure the delivery of the goods within a Purchase Order.

"Purchase Order" refers to the document entitled Purchase Order or Supplementary Purchase Order and which must be signed by an Authorised Person,

"Registered Office" refers to the Company's office to which all documents are to be sent unless otherwise stated in writing.

"Works" means the Sub-Contract or the Sub-Subcontract scope of works and the obligations deriving therefrom which the Company are required to comply with and discharge.

### 1. Interpretation

In the Agreement, unless the context otherwise requires:

- a. the headings are included for convenience only and shall not affect the interpretation of this Agreement;
- b. the singular includes the plural and vice versa;
- c. a gender includes any other gender;
- d. a reference to a person includes any individual, firm, partnership, company and any other body corporate; and
- e. a reference to a statute, statutory instrument or other subordinate legislation is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including any corresponding legislation in any other relevant part of the United Kingdom.
- f. Should any provision of the Agreement be deemed or found to be invalid or unenforceable for any reason, such provision shall be severed from the Agreement and the validity or enforceability of the remainder of the Agreement shall not be affected.
- g. No correspondence, acknowledgement or communications shall supersede or take precedence over these Terms and Conditions. Any alterations to the Terms and Conditions must be agreed in writing by the Company and the Supplier.

### 2. General

- a. The Supplier shall carry out and complete the works as described within the Purchase Order in all respects to the reasonable satisfaction of the Company and in conformity of any written directions and instructions issued by the Company pursuant to the Purchase Order.
- b. The Company shall not be liable for any orders, directions or instructions except those made under a Purchase Order.
- c. The Supplier shall be deemed to know the requirements of the Works and warrants that all equipment and works supplied to the Company shall be in accordance with the Works.
- d. The Supplier shall ensure that each delivery is accompanied by a delivery note, a signed copy of which shall be included with the submission of the Supplier's invoice to the Registered Office.
- e. No part of this Agreement shall be assigned or sub-let without the Company's prior written consent (not be unreasonably withheld).
- f. Upon receipt of the Purchase Order the Supplier must confirm the details of all and any delivery. Notice must be provided for any alteration in an agreed schedule of deliveries.
- g. The Supplier acknowledges the Company may be required to provide operating and maintenance manuals, as built approved drawings, manufacturer's guarantees, warranties and other documentation in connection with the Agreement in order to comply with and discharge the Company's obligations under a Contract and the Supplier shall provide such information to the Company on or before delivery dates detailed in the Programme.

### 3. Design and Obligations

- a. Where the Works or any part thereof have been or will be designed by the Supplier as defined within the Purchase Order, the Supplier warrants it has used and will continue to use all reasonable skill, care and diligence to be expected of a properly qualified and competent equivalent entity experienced in carrying out such design works for similar projects of a similar size, scope, nature, complexity and value to the Purchase Order. The Supplier further warrants that such designs shall be meet the requirements of the Purchase Order and the Works.
- b. The Supplier shall indemnify and hold harmless the Company against any and all costs, expenses, loss or damage howsoever incurred or caused arising out of or in connection with such designs and against any and all claims or demands that may be made against the Company by any person in respect of such loss or damage.
- c. Where the Supplier has responsibility for the design detailed within the Purchase Order or any part thereof, the Supplier shall carry as a minimum Professional Indemnity insurance in accordance with the requirements set out in the Purchase Order and the Supplier shall provide written evidence that such insurance is in place. Such insurance shall remain in place for 12 years following completion of the Works.

### 4. Payment

- a. The Supplier has agreed to perform the Purchase Order on a fixed price basis, unless otherwise indicated.
- b. A detailed invoice together with the signed delivery note bearing the Purchase Order number shall be sent to the Company's Accounts Department after delivery of the goods. Invoices will not be accepted if they relate to more than one Purchase Order unless otherwise agreed in writing.
- c. Statements of account must be issued by the 10<sup>th</sup> of the month following delivery to the Company's Accounts Department.
- d. Unless stated in writing otherwise, the final date for payment of invoices shall be 60 days after the end of the month of valid receipt of an invoice.
- e. Where goods are manufactured in sections and assembled/tested on site, the Supplier may be entitled to claim a gross sum not exceeding 90% of the Purchase Order value upon delivery of the final section and then claim the balance of the Purchase Order value 60 days after the approved assembly, testing and commissioning as applicable unless otherwise detailed within the Purchase order.
- f. No payment shall be made on crates or packing materials of any description except by special arrangement made in writing prior to acceptance of the Purchase Order. All recyclable and reusable packaging must be retained and/or collected by the Supplier.
- g. No payment for carriage shall be made unless agreed in the Purchase Order.
- h. The Company will not be liable for any variation, addition, amendment or alteration to the Agreement which has not been confirmed by the Company in writing. Any Instruction given to the Supplier by the Company shall be complied with once issued with a Supplementary Purchase Order or a new Purchase Order. The Supplier's estimate of the effect in terms of time and money (if any) shall be notified by the Supplier to the Company within three working days of receipt of the Instruction to be followed by a final price within seven working days. Agreed variations to the Purchase Order shall be confirmed as required. Should the Supplier fail to notify the Company of any additional costs within seven days then it shall be deemed to have no financial or programme effect.

### 5. Non Performance or Delay

- a. If the Supplier fails to supply any goods or services mentioned in this Agreement within the time stated on the Purchase Order, the Company may, without prejudice to any other rights or remedies, cancel the Purchase Order as regards the undelivered goods by Notice to that effect and the Supplier shall indemnify the Company for any and all costs incurred by the Company due to such non-performance.
- b. Any item found to be damaged or faulty, including latent defects, on receipt or on the installation of the item, the Supplier shall rectify without delay at their cost.
- c. The goods specified in this Purchase Order shall be subject to inspection and approval by the Company, and if requested by the Company, shall be made available for inspection at the Supplier's works, prior or during manufacture, and if (acting reasonably) rejected will be held at the Supplier's risk.
- d. If requested by the Company, the Supplier shall provide a Production Programme and which the Supplier agrees to be monitored against.
- e. If the Supplier fails to proceed with due diligence or through his own default, negligence, omission, or otherwise fails to complete or carry out the obligations of the Purchase Order, the Supplier shall pay or allow to the Company a sum equivalent to any loss or damage incurred by the Company or likely to be incurred. Such sum shall include, but is not limited to, damages or costs the Company may be liable to pay under the Contract, or such other sum as the Company may from time to time reasonably estimate as the amount of such loss or damage he may incur and/or be liable to pay under the Contract or any other Contract or other third party agreement that may be affected by the default of this Agreement. The Company shall be entitled to deduct sum payable under this clause from any amounts that may be due or have become due to the Supplier from the Company under the Agreement.
- f. If the Supplier is delayed in the commencement, progress or completion of his Works or any part thereof by any act or hindrance caused by the Company, preventing the Supplier from complying with the Production Programme, the Supplier shall be entitled to propose a revised and fair and reasonable Production Programme. It shall be condition precedent to agreement of any revised Production Programme that whenever any such delay becomes or should have become apparent, the Supplier have given written notice to the Company within 7 days of the cause of the delay with a best estimate of the length of the delay together with all supporting information and shall in all cases have taken or shall take such action as may seem to the Company to be reasonable to minimise or mitigate the consequences of any such delay. If the Supplier has caused or contributes to the cause of the delay, they shall forfeit the rights provided under this clause for the whole or part of the delay by which they have so contributed.
- g. Any dispute arising from any other Purchase Orders shall not affect the Supplier's performance of their obligations under this Agreement.

### 6. Insurances

- a. The Supplier shall indemnify the Company and keep indemnified against all liabilities, claims, losses, damages and expenses that the Company may incur or likely to incur as a result of strike, lock-out or other such action that prevents the Supplier from complying with the Agreement.
- b. The Supplier shall issue all insurances to the Company, together with any renewals as they become due and the Supplier shall continue to ensure that they have all insurances required by law, in place.
- c. The Supplier shall indemnify and keep the Company indemnified against and shall effect and maintain policies of insurance in respect of all claims for damages and/or compensation payable at law or in consequence of any accident or injury to any person in the Supplier's employment save and except an accident or injury resulting from any act or omissions or default of the Company's agents or servants (which expressions shall not include the Supplier).



- d. The Supplier shall be responsible for and shall effect insurance on the Agreement and the Supplier's materials (including Supplier's materials delivered to site for incorporation into the Works), temporary buildings, tools, plant, machinery and construction equipment.
- e. The Company will not accept any responsibility for damage, losses or delay whatsoever or howsoever arising for the goods whilst in transit. The Supplier accepts all costs associated with any and all replacements that may be required due to the same.
- 7. Licences**
- a. The Supplier shall pay all royalties and fees on patented articles, processes and/or registered designs or software and indemnify the Company against all claims in respect thereof and against all claims, damages and costs in respect of any patent, registered design or other monopoly privilege which may be infringed by the goods supplied under this Purchase Order.
- b. The Supplier hereby grants to the Company an irrevocable, royalty free, non-exclusive licence to copy and use any drawings, reports, specifications, calculations and other similar documentation produced by or on behalf of the Supplier in relation to the Works.
- 8. Determination and Insolvency**
- a. The Company may forthwith, by written notice, determine the engagement of the Supplier under the Agreement if the Supplier:
- i. is in breach of the Purchase Order and/or these Terms and Conditions; or
  - ii. is in breach or causes the Company to be in breach of the Contract; or,
  - iii. has an administrative receiver, receiver and manager, administrator or similar person appointed over it or its assets or any part thereof; or
  - iv. becomes Insolvent.
- b. Where the Supplier's engagement under the Agreement is determined pursuant to clause 8, then without prejudice to any other remedy the Company may have, the Company may engage other persons to carry out and complete the Purchase Order and deduct the costs of so doing, in addition to any other expenses and direct loss and/or damage suffered by the Company as a result of the determination, from any payment due to the Supplier, or recover the costs from the Supplier if no such payment is due.
- c. If the Company's employment under the Contract is determined for a reason other than set out in clause 8a before the Supplier has fully performed its obligations under the Agreement, then the employment of the Supplier may be determined by written notice forthwith by the Company and the Supplier and shall be entitled to payment of the goods that the Company has taken possession and the reasonable costs associated with such determination.
- 9. Waiver**
- The Company's failure to enforce any right or remedy under the Agreement shall not constitute a waiver of any such right or remedy of the Company and in the event that the Company does waive any breach by the Supplier such waiver shall not be construed as a waiver of any subsequent breach.
- 10. Contract (Rights of Third Parties) Act 1999, the Bribery Act 2010 and the Modern Slavery Act 2015 and any amendments thereto**
- a. Notwithstanding any other provision of this Agreement, nothing in this Agreement confers, or is intended to confer any right to enforce any of its terms upon any person who is not a party to it.
- b. The Supplier undertakes to protect the Company's standards of business practice at all times and to act in such a way as to uphold the Company's good name and reputation, and not to do or to attempt to do any act or thing which is intended and/or which in fact causes any damage to or brings discredit upon the Company and/or which amounts to an offence under the Bribery Act 2010.
- c. The Supplier shall comply with all applicable laws, statutes, regulations and sanctions relating to anti-slavery and human trafficking including, but not limited to, the Modern Slavery Act 2015 and shall promptly report to the Company any actual or potential breaches of the same. The Supplier shall indemnify the Company against any losses, liabilities, damages or costs incurred by the Company as a result of any breach of this provision.
- 11. Applicable Law**
- a. This Agreement shall be governed and construed in accordance with the law of England and the English courts shall have jurisdiction over any dispute or difference that may arise.