

## CONDITIONS OF ORDER

These Conditions of Order are applicable to all orders issued by OBR Construction Limited to the Supplier unless otherwise agreed in writing by the parties. Any special terms and conditions for the Supplies and Services shall be detailed in the purchase order form. In case of any discrepancies or ambiguities as between these Conditions of Order and the purchase order form, the purchase order form shall take precedence.

No conditions of the Supplier set forth on any documents from the Supplier (such as general conditions of sale, letters, delivery notes, bill of receipt, invoices, etc.) or on any acceptance of any Purchase Order issued by the Purchaser shall be applicable to any Purchase Order. No modification to any provision of these Conditions of Order shall be valid without the Purchaser's written approval.

## DEFINITIONS

In these conditions, the following words shall have the meaning stated below:

- (a) "**Conditions of Order**" means these conditions which form an integral part of the Purchase Order.
- (b) "**Permanent Works**" means those works, services and utilities to form or forming a permanent part of the works for the relevant project or projects in respect of which the Supplies and Services are provided.
- (c) "**Purchase Order**" means the purchase order form detailing the Supplies and Services ordered by the Purchaser, those Conditions of Order and any other documents referred to therein.
- (d) "**Purchaser**" means OBR Construction Limited or any of its Subsidiaries issuing a purchase order form.
- (e) "**Statutory Requirements**" means all relevant Acts of Parliament, any instrument, rule or order made under any Act of Parliament, or any regulation or byelaw of any local authority or of any statutory body including but not limited to British Standards, European Standards of Codes of Practices in each case as amended from time to time.
- (f) "**Supplier**" means the person or company identified under the purchase order form with whom the Purchaser has placed the Purchase Order.
- (g) "**Supplies and Services**" means all or part of any materials, things and/or services to be provided by the Supplier under the Purchase Order and identified in the purchase order form

## 1. PURCHASE ORDER

- (a) The Supplier shall be responsible for everything that is or will be necessary for the procurement and delivery of the Supplies and Services and the execution of all its obligations and discharge of all its liabilities under the Purchase Order. The Supplier shall not rely on any omission, inaccuracy or error contained in any document comprising the Purchase Order to relieve itself of any of its obligations under the Purchase Order.
- (b) Subject to clause 1(a), where discrepancies occur between drawings and specifications and/or other documents associated with the Purchase Order, the Supplier shall notify the Purchaser in writing of any such discrepancies, without delay, for the Purchaser's determination.
- (c) The Purchase Order contains the entire agreement between the Purchaser and the Supplier as to its subject matter and supersedes all prior agreements and representations between the Purchaser and the Supplier.

## 2. ACCEPTANCE OF THE PURCHASE ORDER

The Purchase Order and all its terms and conditions is deemed to have been unconditionally accepted by the Supplier if performance has commenced or when no written refusal has reached the Purchaser within seventy-two (72) hours from the date of receipt of the purchase order form by the Supplier.

## 3. PRICE

- (a) The Price to be paid for the delivery of the Supplies and the performance of the Services is the fixed price stated in the purchase order form and shall not be amended except in accordance with these Conditions of Order.
- (b) The price shall be deemed to include all costs, charges, fees, contingencies, attendances, overheads and profit required for the Supplier's discharge of its obligations under the relevant Purchase Order, including (without limitation) packing, insuring and delivering the Supplies and the Services ordered by the Purchaser.
- (c) All prices are exclusive of VAT.

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- (d) Where the Supplier proposes to vary the price, the Supplier shall give notice in writing of such proposal to the Purchaser. Any variation to the price shall only be valid and effective when confirmed in writing by the Purchaser.

#### 4. PAYMENT

- (a) An invoice shall be raised by the Supplier for each order made by the Purchaser, on a monthly basis and addressed to the Purchaser's Finance Department as detailed in the purchase order form, at the latest on the 10th day of the month following delivery.
- (b) The Supplier shall indicate in the invoice the relevant purchase order form number, in full, the site reference number, the delivery address and the date of delivery. The Supplier shall also show separately on the invoice the applicable VAT amount. The invoice shall include a reference to the delivery note signed by the Purchaser pursuant to clause 5(c).
- (c) Subject to compliance by the Supplier with clauses 4(a) and (b), payment shall be made within 30 calendar days following the date of the invoice. No payment shall be made if invoices are not properly issued. The Purchaser shall have the right to deduct from any money he owes to the Supplier any amount that the Supplier owes the Purchaser.
- (d) No payment shall be made unless the purchase order form has been deemed accepted by the Supplier pursuant to clause 2 above or if the Supplies and Services have not been delivered to the Purchaser.
- (e) In the event of late payment by the Purchaser beyond a period of 30 calendar days from the due date for payment, the Supplier shall be entitled, as sole financial compensation, to be paid interest at two (2) percent above the base rate for the time being of the Bank of England on the amount outstanding.

#### 5. DELIVERY

- (a) Delivery shall be made at the location indicated by the Purchaser during normal business hours, at the latest half an hour before normal finishing time (save where specific access restrictions apply and have been notified to the Supplier or specified on the purchase order form) and at the Supplier's cost and risk.
- (b) Upon delivery, the Supplier shall provide the Purchaser with a delivery note in two (2) originals, which shall state the relevant purchase order form number as well as the exact details of the Supplies and Services delivered. If the Supplies are ordered by weight the delivery note must be accompanied by a weight docket issued from an authorized and approved weighbridge. The delivery note shall be signed by the Purchaser as a proof of delivery only and the Purchaser shall not be deemed to have inspected the Supplies and Services solely as a result of having signed the delivery note. Where the Supplies and Services are packaged or wrapped then the acceptance of the Supplies and Services shall not be made until the Purchaser has actually inspected and accepted them. In case of delay or non-conformity, the Purchaser shall have the right to reject non-conforming Supplies and/or Services and to return the Supplies delivered at the Supplier's cost and risk. Supplies and/or Services delivered in a damaged condition shall be replaced immediately by the Supplier without charge. No storage charge shall be paid until the Purchaser accepts delivery.
- (c) The failure by the Supplier to produce a delivery note signed by the Purchaser shall be conclusive evidence that the Supplies and Services have not been delivered or provided.
- (d) Offloading shall be done by the Supplier and shall be the Supplier's responsibility. The Supplier shall perform the offloading in accordance with the appropriate Risk Assessment Method Statement (RAMS) prepared by the Supplier for the purposes of the offloading. Notwithstanding the above, if requested by the Supplier, the Purchaser may at its discretion provide reasonable assistance in the offloading of Supplies. For materials unloaded by Hi-ab (lorry loader) unloading must be carried out in accordance with BS7121:4:2010 (Code of Practice for safe use of cranes/lorry loaders).
- (e) Subject to clause 5 (f), the transfer of risk in the Supplies and Services to the Purchaser shall occur upon delivery thereof.
- (f) Transfer of ownership in the Supplies and Services to the Purchaser shall take place upon delivery thereof. Upon delivery of Supplies and Services the Supplier shall have no title or interest therein at law or in equity. Property and risk of loss or damage to those Supplies and Services which are not in accordance with the Purchase Order shall not pass to the Purchaser. The Purchaser shall give notice within a reasonable time of any discrepancy or damage and the property and risk therein shall remain with the Supplier until the Supplies and Services are compliant.
- (g) All drivers and operatives of the Supplier shall be familiar of all health and safety rules applicable on site and shall at a minimum wear safety helmet, high visibility jacket/waistcoat, gloves, eye protection, safety boots or shoes that are to be compliant with the relevant EU standards and must have a valid CSCS card.

- (h) All operators of crane vehicles visiting site must be fully certified (CPCS, CITB or equivalent) and shall carry copies of this certification for inspection as necessary.
- (i) Delivery shall be accompanied by all necessary operating and maintenance manual and information concerning handling, use and maintenance and all information and datasheets provided by the Supplier will satisfy current HSQE laws and regulations including (without limitation) Control of Substances Hazardous to Health Regulations. The Purchaser's approval of any Supplier's drawings shall not mean acceptance on the Purchaser's part of any design liability.

#### 6. PROGRAMME FOR DELIVERY

The date(s) and/or period for delivery specified in the Purchase Order shall be strictly complied with. If such date(s) or period are not specified, then the Supplier and the Purchaser shall agree a programme for delivery. If agreement is not reached, the Purchaser shall be entitled to terminate the Purchase Order and shall only be liable to pay the Supplier the price for the Supplies and Services delivered to the Purchaser prior to such termination. Should the Purchaser require to amend the date(s) or period for delivery, the Supplier shall use its best endeavors to comply with such amendments. Specifically, if for any reason the Purchaser is unable to accept delivery at the time when the Supplies and Services are due and ready for delivery, the Supplier shall store the relevant Supplies and safeguard them and take all reasonable steps until actual delivery at the Supplier's expense, unless otherwise agreed. Where applicable, the costs of waiting time shall be detailed in the Purchase Order.

#### 7. VARIATIONS

- (a) The specifications and quantities of the Supplies and Services detailed within the purchase order form shall be subject to variation at the request of the Purchaser. In that case, the Supplier shall give effect to any such variation as soon as it receives it.
- (b) Where applicable, the rates contained in the Purchase Order shall be used to evaluate the variation.
- (c) No variation, extension, cancellation or departure from the terms of the Purchase Order shall be valid unless agreed in writing by the Purchaser.

#### 8. SUPPLIER'S OBLIGATIONS – INSPECTIONS, TESTING AND EXPEDITING

The Supplier agrees: (a) that all inspections and tests by the Purchaser may be made as required by the Purchase Order; (b) that all Supplies provided under this Purchase Order shall be subject to inspection by the Purchaser and/or those authorized by the Purchaser at all reasonable times and places, before, during and after manufacture; (c) that when inspection is provided for under the Purchase Order or otherwise, the Supplier shall give the Purchaser at least five (5) calendar days written advance notice of readiness for inspection; (d) that the inspection or failure to inspect by the Purchaser or any other authority shall not relieve the Supplier of any responsibility or liability with respect to any such Supplies and is not interpreted in any way as acceptance thereof or knowledge by the Purchaser.

The Supplier shall keep the Purchaser informed of progress and shall expedite delivery of the Supplies and Services and any of Supplier's orders to sub-vendors. The Supplier shall provide the Purchaser with unpriced copies of Supplier's sub-orders and any relevant shipping information including that of the Supplier's sub-vendor orders when and as requested. At the reasonable request of the Purchaser, the Supplier shall allow the Purchaser or the Purchaser's nominees access to the Supplier's and/or sub-vendors' premises to inspect the relevant Supplies and Services.

#### 9. SUPPLIER'S LIABILITY

- (a) The Supplier shall remain responsible for obtaining the necessary details, up-to-date drawings or other information before delivery.
- (b) Any transfer or subcontracting of the Purchase Order by the Supplier shall be subject to the prior written consent of the Purchaser. In case of such transfer or subcontracting, the Supplier and its transferee/subcontractor shall remain jointly and severally liable to the Purchaser for performance of the Purchase Order.
- (c) The Supplier shall be liable for all liabilities, demands, losses, damages, costs, claims, and expenses made against, suffered or incurred by the Purchaser arising directly or indirectly out of any breach or non-performance by the Supplier of the Purchase Order or any negligence of the Supplier, including but not limited to all professional fees and any enforcement costs.
- (d) The Supplier shall remedy at its cost any defects in or replace any defective Supplies and Services forthwith upon notification of the Purchaser.

- (e) Without prejudice to clause 9 (d) and/or the Supplier's general liability for latent defects pursuant to clause 12, in respect of those Supplies and Services which are intended to form part of the Permanent Works, the Supplier shall make good all defects in the Supplies and Services at its cost and shall bear all expenses incurred by the Purchaser as a consequence of such defects for a period of 12 months (or such longer period as may be specified in the purchase order form) from the date of delivery of the Supplies and Services.
- (f) Unless specifically included within the Purchase Order, or agreed between the Purchaser and the Supplier, the Purchaser is under no design responsibility.

#### 10. ANTI-CORRUPTION

- (a) The Supplier shall and shall procure that persons associated with it or other persons who are supplying the Purchaser with the Supplies and Services or in connection with the Purchase Order shall:
  - i. comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption ("**Relevant Requirements**"), including, but not limited to the Bribery Act 2010 (including any amendment thereto or re-enactment thereof);
  - ii. comply with the Purchaser's ethics, anti-bribery and anti-corruption policies provided by the Purchaser to the Supplier as the Purchaser may update from time to time ("**Relevant Policies**");
  - iii. not do, or omit to do, any act that will cause or lead the Purchaser to be in breach of any of the Relevant Requirements or the Relevant Policies;
  - iv. have and shall maintain in place throughout the term of the Purchase Order its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and this clause 10, and will enforce them where appropriate;
- (b) The Supplier shall be responsible for the observance and performance by any sub-supplier of the provisions of this Clause 10, and shall be directly liable to the Purchaser for any breach by the sub-supplier of any of the provisions of this Clause 10.
- (c) For the purpose of this clause 10 the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with the provisions of the Bribery Act 2010 (including any guidance issued under that Act and any amendment thereto or re-enactment thereof) and, for the purpose of this clause 10, a person associated with the Supplier includes but is not limited to any sub-supplier.

#### 11. LIEN AND SET-OFF

The Supplier hereby unconditionally waives any lien or any right it has or may have on the Supplies and Services for any sums due by the Purchaser to the Supplier under the Purchase Order.

#### 12. SUPPLIER WARRANTIES

The Supplier hereby warrants that the Supplies and Services shall:

- conform with the specifications set out or referred to the Purchase Order;
- conform in all respects with any samples supplied and not vary from the samples unless expressly agreed in writing by the Purchaser;
- be fit for the purpose for which they are intended;
- not infringe any intellectual property right of any third party; and
- comply with the Statutory Requirements including (without limitation) any laws, regulations and standards in respect of quality, health, safety and environment.

The acceptance of the delivery by the Purchaser shall not release the Supplier in case of latent defects of the Supplies and Services supplied.

#### 13. SUPPLIER INSURANCE

- (a) The Supplier shall ensure that he is insured for any and all risks that could result from the execution of the Purchase Order. The Supplier will have to give proof when asked by the Purchaser.
- (b) The Supplier shall affect and maintain the following insurances:
  - (i) Third Party Insurance, including Product Liability, with an indemnity limit of at least £5 million (unless otherwise specified in the Purchase Order), in respect of any one claim or a number of claims arising out of the same with the policy endorsed to indemnify the Purchaser;

- (ii) (where applicable to the Supplies and Services being provided), Professional Indemnity Insurance in respect of any professional liability that may arise under the Purchase Order for design or otherwise, with a minimum amount of indemnity of £5 million (unless otherwise specified in the Purchase Order), in respect of any one claim or a number of claims arising out of the same with the policy endorsed to indemnify the Purchaser; and
- (iii) Employer's Liability Insurance in respect of or in consequence of any death of or bodily injury or illness or disease contracted by any workman or other person in the employment of the Supplier occurring as a result of or in connection with the procurement and delivery of the Supplies and Services.

14. **COPYRIGHT**

Copyright in any drawings or technical data etc. prepared by the Purchaser or for the Purchaser is vested in the Purchaser and where such are passed to the Supplier for the purposes of manufacture, remain the Purchaser's exclusive property and must be returned to the Purchaser when this Purchase Order has been fulfilled or cancelled.

15. **FORCE MAJEURE**

In the event of the Supplier being unable to obtain delivery of raw materials from any available source or being unable to make delivery or the Purchaser being unable to accept delivery under the Purchase Order due to strike (other than strike only affecting the Purchaser or the Supplier as the case may be), lock out, fire, storm, tempest, flood, war, terrorism, riot or civil commotion, the Supplier shall within seven (7) calendar days of the occurrence of any such event give notice in writing to the Purchaser with full particulars thereof. The Purchaser may suspend the Purchase Order by giving notice in writing to the Supplier to that effect. If the relevant event continues for more than one month from the date of notification thereof by the Supplier, then the Purchaser may by written notice send to the Supplier a written notice terminating the Purchase Order without incurring any liability to the Supplier for such termination.

16. **TERMINATION**

- (a) The Purchaser reserves the right to terminate the Purchase Order at any time by written notice to the Supplier. In such event, provided that the termination is not due to the Supplier's default, the Supplier shall be entitled to be paid for the Supplies and Services actually delivered and/or performed at the date of such termination. The Supplier shall not be entitled to any damages or other compensation by reason of such termination.
- (b) In the event of any failure by the Supplier to perform any of its obligations under the Purchase Order, the Purchaser shall issue a written notice to the Supplier of its intention to terminate the Purchase Order if the Supplier does not comply. Within eight (8) calendar days of such notice and if the Supplier has not made good the non-compliance, the Purchaser shall be entitled to terminate the Purchase Order immediately by written notice to the Supplier. As a consequence, the Supplier shall remain liable for the costs due to the Purchase Order's termination, including without limitation, all charges and costs resulting from the appointment of a new supplier.

17. **CONFIDENTIALITY**

The Purchase Order and all information disclosed under or in connection with the Purchase Order shall be treated by the Supplier as confidential and shall not, without the Purchaser's consent, be divulged to any other person.

18. **LAW AND JURISDICTION**

All Purchase Orders shall be governed by and construed in accordance with English law.

The parties hereby agree to submit any dispute arising from the interpretation or performance of any Purchase Order to the exclusive jurisdiction of the courts of England and Wales.