

General Terms and Conditions for Purchase of Goods and Related Services

1 Definitions

In these Conditions the following definitions apply:

- 1.1 "Business Day" means a day other than Saturday, Sunday and public holidays.
- 1.2 "Buyer" means Westleigh Partnerships Limited (Company number: 08575300).
- 1.3 "Buyer's Group" means the Buyer and any undertaking which is the ultimate parent undertaking of the Buyer and any direct or indirect subsidiary undertaking of such parent undertaking and "parent undertaking" and "subsidiary undertaking" shall have the meanings ascribed to them in section 1162 of the Companies Act 2006.
- 1.4 "Conditions" means the general terms and conditions set out in this document.
- 1.5 "Confidential Information" means any commercial, financial or technical information, information relating to products, plans (including building design and layout and estate plans), know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract.
- 1.6 "Contract" means the agreement between the Supplier and the Buyer for the sale and purchase of Products incorporating these Conditions and the Order.
- 1.7 "Delivery Location" means the address(es) for delivery of the Goods or the performance of the Services as set out in the Order.
- 1.8 "Force Majeure" means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Contract; strike, lockout or boycott or other industrial action except strikes or other industrial disputes involving the Supplier's or its suppliers workforce.
- 1.9 "Goods" means the goods and related accessories, spare parts and documentation and other physical material set out in the Order or understood by the parties to be included in the Goods and to be supplied by the Supplier to the Buyer.
- 1.10 "Intellectual Property Rights" means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:
 - 1.10.1 whether registered or not;
 - 1.10.2 including any applications to protect or register such rights;
 - 1.10.3 including all renewals and extensions of such rights or applications;
 - 1.10.4 whether vested, contingent or future;
 - 1.10.5 to which the Supplier is or may be entitled, and
 - 1.10.6 in whichever part of the world existing.
- 1.11 "Order" means the Buyer's order for the Products from the Supplier as set out in the Buyer's order form to which these Conditions are attached ("Order Form").
- 1.12 "Products" means the Goods, the Services or both of them, as the case may be.
- 1.13 "Supplier" means the supplier of Products as set out in the Order Form.
- 1.14 "Services" means any services set out in the Order or which are to be purchased as ancillary to the supply of the Goods.
- 1.15 "Specification" means the description, any samples, or specification of the Products and their packaging set out or referred to in the Order.
- 1.16 "Value Added Tax or VAT" means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Products.

2 Interpretation

- 2.1 In the Order and these Conditions, unless the context otherwise requires:
 - 2.1.1 each gender includes the others;
 - 2.1.2 the singular includes the plural and vice versa;
 - 2.1.3 references to the Contract include the Conditions, the Order and any separate Specification;
 - 2.1.4 references to persons include individuals, unincorporated bodies, government entities, corporations and other entities;
 - 2.1.5 clause headings do not affect their interpretation;
 - 2.1.6 general words are not limited by example; and
 - 2.1.7 references to any legislation will be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

3 Application of Conditions

- 3.1 These Conditions apply to and form part of the Contract between the Supplier and the Buyer. They supersede any previously issued terms and conditions of purchase or supply.
- 3.2 No terms or conditions endorsed on, delivered with, or contained in the Supplier's quotation, sales conditions, confirmation of order, specification or other document will form part of the Contract except to the extent that the Buyer otherwise agrees in writing.
- 3.3 No variation of these Conditions or to an Order will be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Buyer.
- 3.4 Each Order by the Buyer to the Supplier will be an offer to purchase Products subject to these Conditions.
- 3.5 An Order may be withdrawn or amended by the Buyer at any time before acceptance by the Supplier. If the Supplier is unable to accept an Order, it shall notify the Buyer promptly.

- 3.6 Acceptance of an Order by the Supplier will take place when it is expressly accepted or by any other conduct of the Supplier which the Buyer reasonably considers is consistent with acceptance of the Order.

4 Price

- 4.1 The price for the Products will be as set out in the Order or, in default of such provision, will be calculated in accordance with the Supplier's scale of charges as advised by the Supplier and received by the Buyer before the date the Order is made. No increase in the price may be made after the Order is placed.
- 4.2 The price includes packaging, delivery, unloading and unpacking.

5 Payment

- 5.1 The Supplier will invoice the Buyer for the Products no sooner than completion of delivery of the Products or, if later, the Buyer's acceptance of the Products.
- 5.2 The Buyer will pay each validly submitted invoice within 30 days following the end of the calendar month of receipt.
- 5.3 Time of payment is not of the essence. Where sums due under the Contract are not paid in full by the due date, to compensate the Supplier for all loss from the Buyer's breach, the Buyer will pay on the sum overdue interest (before and after judgment) on a daily basis until payment in full at the rate of two per cent per annum above the Official Bank Rate from time to time of the Bank of England. The Supplier acknowledges that this is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.4 VAT will be charged by the Supplier and paid by the Buyer at the then applicable rate.

6 Cancellation

- 6.1 The Buyer will have the right to cancel the Order for the Products or for any part of the Products which have not yet been delivered to the Buyer, in which case, the Buyer will only be liable to pay for that part of the Price which relates to the Products which at the time of cancellation have been delivered to the Buyer and/or manufactured for the Buyer and the costs of materials which the Supplier has purchased to fulfil the Order for the Products which cannot be used for other orders or be returned to the Supplier's supplier of those materials for a refund.

7 Delivery

- 7.1 The Products will be delivered or performed by the Supplier to or at the Delivery Location on the date(s) specified in the Order. The Goods will be delivered by the Supplier only on completion of unloading of the Goods at the Delivery Location.
- 7.2 The Products will not be delivered by instalments unless agreed by the Buyer.
- 7.3 Each delivery of the Products will be accompanied by a delivery note stating:
 - 7.3.1 the date of the Order;
 - 7.3.2 the relevant Buyer and Supplier details;
 - 7.3.3 the product numbers and type and quantity of Products in the consignment;
 - 7.3.4 any special handling and other requests; and
 - 7.3.5 whether any packaging material is to be returned, in which case the Buyer will, after the Goods are unpacked, make them available for collection by the Supplier at the Supplier's expense.
- 7.4 Time of delivery is of the essence. If the Supplier fails to deliver any of the Products by the date(s) specified in the Order, the Buyer will (without prejudice to its other rights and remedies) be entitled at the Buyer's sole discretion:
 - 7.4.1 to terminate the Contract in whole or in part;
 - 7.4.2 to purchase the same or similar Products from a supplier other than the Supplier;
 - 7.4.3 to recover from the Supplier all costs and losses resulting to the Buyer, including the amount by which the price payable by the Buyer to acquire those products from another supplier exceeds the price payable under the Contract and any loss of profit; and
 - 7.4.4 all or any of the foregoing.

8 Acceptance, rejection and inspection

- 8.1 The Buyer will not have accepted, or be deemed to have accepted, the Products until the Acceptance Conditions are fulfilled.
- 8.2 The 'Acceptance Conditions' are that:
 - 8.2.1 the Products have been delivered to or performed at the Delivery Location; and
 - 8.2.2 the Buyer has notified the Supplier in writing that the Products have been delivered/performed in complete compliance with the terms of the Contract.
- 8.3 The Buyer will be entitled to reject any Products which are not in complete compliance with the Contract. Any acceptance of defective, late or incomplete Products or any payment made in respect thereof, shall not constitute a waiver of any of the Buyer's rights and remedies, including its right to reject.
- 8.4 Any rejected Products may be returned to the Supplier by the Buyer at the Supplier's cost and risk. The Supplier will pay to the Buyer a reasonable charge for storing and returning any of the Products over-delivered or rejected.
- 8.5 The Buyer may require acceptance tests to be performed or to be carried out, at the Buyer's option, either by the Buyer or the Supplier, and the results of the tests shall be made available to the Buyer.
- 8.6 The Buyer may inspect and test the Products during manufacture or processing prior to despatch, and the Supplier shall provide the Buyer with all facilities reasonably required.
- 8.7 Any inspection or testing of the Products shall not be deemed to be acceptance of the Products or a waiver of any of the Buyer's rights and remedies, including its right to reject

- 9 Title and risk**
- 9.1 Risk in the Goods will pass to the Buyer on delivery and when the Buyer has accepted the Goods as conforming in every respect with the Contract.
- 9.2 Title to the Goods will pass to the Buyer on the sooner of: (a) when the Goods are unconditionally appropriated to the Contract by either party by or with the consent of the other party; or (b) delivery of the Goods to the Buyer.
- 9.3 The passing of title will not prejudice any other of the Buyer's rights and remedies, including its right to reject.
- 9.4 The Supplier and no other person will have a lien on, right of stoppage in transit or other rights in or to any Goods title to which has vested in the Buyer or any Specifications or materials of the Buyer, and the Supplier will ensure that relevant third parties accept the exclusion of such lien and rights.
- 9.5 The Supplier undertakes that it:
- 9.5.1 has at the time the Contract is made full, clear and unencumbered title to the Products, and the full, clear and unencumbered right to sell and deliver them to the Buyer; and
- 9.5.2 will hold such title and right to enable it to ensure that the Buyer will acquire a valid, unqualified title to the Products and will enjoy quiet possession of them.
- 10 Warranties, representations and undertakings**
- 10.1 The Supplier has represented and warrants and undertakes that, for a period of 24 months from delivery ("Warranty Period"), the Products will:
- 10.1.1 conform in all material respects to any sample, their description and to any applicable Specification;
- 10.1.2 comply with any relevant British Standard or codes of practice or such other industry standard as may be applicable;
- 10.1.3 be free from material defects in design, material and workmanship;
- 10.1.4 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
- 10.1.5 in the case of Services, be carried out with reasonable care and skill;
- 10.1.6 in the case of Goods, be supplied in accordance with the guidance contained in the publication "Good Practice in the Selection of Construction Materials" (2011: British Council for Offices) as may be amended or replaced from time to time; and
- 10.1.7 be fit for their purpose and any purpose held out by the Supplier and set out in the Order and as otherwise required to meet the Buyer's needs.
- 10.2 The Supplier agrees that the approval by the Buyer of any design or specification provided by the Supplier will not relieve the Supplier of any of its obligations under this clause.
- 10.3 The Supplier will, without prejudice to the Buyer's other rights and remedies, repair, replace, correct, re-perform or refund the price of defective Products, provided that the Buyer informs the Supplier during the Warranty Period of discovery that some or all of the Products do not comply with the Contract.
- 10.4 The Supplier warrants that, in relation to the Products, it understands the Buyer's business and needs.
- 10.5 The Supplier warrants and undertakes that it, and all persons associated with it, will comply with all applicable laws, regulations and codes and, in relation to the provision of the Products, will not engage in any activity which is bribery, and will comply with anti-bribery laws, regulations and codes. The Supplier shall maintain adequate procedures to ensure compliance.
- 11 Indemnity and insurance**
- 11.1 The Supplier shall indemnify and keep indemnified the Buyer against all claims, costs and expenses which the Buyer may suffer or incur directly or indirectly from the Supplier's breach of any of the Supplier's obligations under the Contract.
- 11.2 The Supplier will have in place contracts of insurance with reputable insurers incorporated in the United Kingdom insuring the Goods and any of the Buyer's materials in the Supplier's possession against the usual risks, including accident, fire and theft, for their full replacement value until the risk in them passes to the Buyer, and insuring against all other risks that a prudent supplier should consider reasonable. On request, the Supplier will supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable. The Supplier shall on request assign to the Buyer the benefit of such insurance.
- 12 Intellectual property rights**
- 12.1 The Supplier will defend or, at the Buyer's option, settle any action brought against the Buyer arising from any claim that the use of the Products by the Buyer or any of its customers and nominees infringes any third party Intellectual Property Right, and will indemnify and keep indemnified the Buyer against all claims, costs and expenses which the Buyer may suffer or incur directly or indirectly in connection with such claim.
- 12.2 All specifications provided by the Buyer and all Intellectual Property Rights in the Products made in accordance with such specifications shall vest in and remain at all times the property of the Buyer and such specifications may only be used by the Supplier as necessary to perform the Contract. The Supplier hereby assigns (or shall procure the assignment) to the Buyer absolutely, with full title guarantee, all right, title and interest in any such Intellectual Property Rights, and the Supplier will do all such things and sign all documents necessary in the Buyer's opinion to so vest all such Intellectual Property Rights in the Buyer, and to enable the Buyer to defend and enforces such Intellectual Property Rights.
- 13 Confidentiality and announcements**
- 13.1 The Supplier shall keep confidential all Confidential Information of the Buyer and will only use the Buyer's Confidential Information as required to perform the Contract. The provisions of this clause will not apply to:
- 13.1.1 any information which was in the public domain at the date of the Contract;
- 13.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 13.1.3 any information which is independently developed by the Supplier without using information supplied by the Buyer; or
- 13.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 13.2 This clause will remain in force in perpetuity.
- 13.3 The Supplier shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.
- 14 Force majeure**
- 14.1 A party will not be liable if delayed in or prevented from performing its obligations due to force majeure, provided that it:
- 14.1.1 promptly notifies the other of the force majeure event and its expected duration; and
- 14.1.2 uses best endeavours to minimise the effects of that event.
- 14.2 If, due to force majeure, a party:
- 14.2.1 is or will be unable to perform a material obligation; or
- 14.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days;
- the other party may, within 30 days, terminate the Contract on immediate notice.
- 15 Termination**
- 15.1 The Contract may be terminated or its performance suspended forthwith at any time by the Buyer on written notice to the Supplier if:
- 15.1.1 the Supplier commits a material breach, or series of breaches resulting in a material breach, of the Contract and such breach is not remediable or if capable of remedy is not remedied within 15 days of written notice to do so;
- 15.1.2 the Supplier becomes bankrupt;
- 15.1.3 the Supplier suspends or threatens to suspend payment of its debts, or is unable to pay its debts as they fall due;
- 15.1.4 the Supplier (a) negotiates with its creditors for rescheduling of its debts, (b) makes a proposal to or compounds with its creditors in respect of its debts or (c) makes an application to court for protection from its creditors generally;
- 15.1.5 the Supplier passes a resolution for winding-up or for the appointment of an administrator, or a step is taken to appoint a liquidator or administrator in relation to the Supplier, or a step is taken to obtain a winding-up order in relation to the Supplier;
- 15.1.6 a step is taken to appoint a receiver or administrative receiver in relation to the Supplier or any of its assets;
- 15.1.7 any creditor of the Supplier attaches, takes possession of, or any distress, execution or similar process is levied or enforced against, all or any part of the Supplier's assets, and such attachment or process is not discharged within 14 days;
- 15.1.8 the Supplier takes or suffers any action similar to any of the above in any jurisdiction;
- 15.1.9 there is a material change in the management, ownership or control of the Supplier;
- 15.1.10 the Supplier suspends trading, ceases to carry on business, or threatens to do either; or
- 15.1.11 the Supplier (being an individual) dies or ceases to be capable of managing his own affairs.
- 15.2 On termination of the Contract for any reason:
- 15.2.1 the Supplier will forthwith return any materials of the Buyer then in its possession or control; if it fails to do so, the Buyer may enter onto any premises owned by or under the control of the Supplier and take possession of them;
- 15.2.2 the accrued rights and liabilities of the parties will not be affected; and
- 15.2.3 any clause which expressly or by implication is to survive termination will do so.
- 16 General**
- 16.1 Unless stated otherwise, in relation to the Supplier's obligations, time is of the essence of any date or period specified in the Contract.
- 16.2 To the extent determined by the Buyer in its absolute discretion from time to time, any member of the Buyer's Group shall be entitled in its own right to enforce any or all the Buyer's rights and remedies relating to the Contract. The consent of any such member is not required in order to rescind or vary the Contract or any provision of it.
- 16.3 The Buyer may at any time assign, transfer, charge, hold on trust for another or deal in any other manner with any or all of its rights and obligations under the Contract, or sub-contract any or all of its obligations hereunder. The Supplier will not assign, transfer, mortgage, charge, hold on trust for another or deal in any other manner with any of its rights or obligations under the Contract, or purport to do so, and the Supplier will not sub-contract any of its obligations under the Contract.
- 16.4 All payments by the Supplier will be made without abatement, set-off or counterclaim, free and clear of and without deduction for any tax, levy, duty, charge, or withholdings of any kind now or in the future, imposed in any jurisdiction unless it is compelled by law to deduct or withhold any such amounts, in which case it will pay to the Buyer such additional amount as will ensure that

- the Buyer is paid the full amount it would have received but for such deduction or withholding.
- 16.5 The Supplier will indemnify and keep indemnified the Buyer against all claims, costs and expenses suffered or incurred in connection with the transfer by operation of law to the Buyer of the contract of employment of any employee of the Supplier or its suppliers arising out of the Buyer's entry into, performance or termination of the Contract in whole or in part.
- 16.6 The parties are independent businesses and, in relation to each other, not principal and agent, partners, or employer and employee. It is a condition of the Contract that the Supplier enters into the Contract as principal and not as agent for any person.
- 16.7 If any provision in the Contract is found by a court, tribunal or other administrative body of competent jurisdiction to be unenforceable or invalid for any reason, that provision is to be severed from the Contract and the remaining provisions of the Contract will otherwise remain in full force.
- 16.8 Notices under a Contract will be in writing and sent to the persons and addresses set out in the Order. They may be given, and will be deemed received:
- 16.8.1 by first-class post: two Business Days after posting;
 - 16.8.2 by airmail: seven Business Days after posting;
 - 16.8.3 by hand: on delivery;
 - 16.8.4 by facsimile: on receipt of a successful transmission report from the correct number; and
 - 16.8.5 by e-mail: on receipt of a delivery or read receipt mail from the correct address.
- 16.9 No delay, act or omission by either party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.
- 16.10 The rights and remedies provided in the Contract for the Buyer only are cumulative and not exclusive of any rights and remedies provided by law.
- 16.11 Except as provided in clauses 16.2 and 16.3, the Contract is not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 16.12 The terms of these Conditions prevail over those of the Order except to the extent that a provision to be overridden is specifically identified and the intention for the Contract to amend the provision is clearly expressed.
- 16.13 The parties agree that the Contract constitutes the entire agreement between them in respect of its subject matter. Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract.
- 16.14 The Contract will bind and benefit each party's permitted assigns, successors and personal representatives.
- 16.15 The Contract will be governed by the law of England and Wales.
- 16.16 Disputes will be submitted to the exclusive jurisdiction of the courts of England and Wales.