

Purchase or Hire of Goods and/or Services

Terms And Conditions

1 Interpretation

1.1 In these Conditions:

“Conditions” means the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Supplier and the Contractor.

“Contractor” means PDR Construction Limited of Salisbury House, Saxon Way, Hessle, East Yorkshire, HU13 9PB, and its successors or assignees.

“Due Date” means the date so defined in Clause 7.1.

“Employer” means any person or persons employing the Contractor under a Third Party Contract.

“Goods” means any goods and/or plant and/or materials which the Supplier is to supply or has supplied to the Contractor either by way of sale or hire.

“Order” means any order(s) placed by the Contractor with the Supplier for the purchase or hire of the Goods and/or the Services.

“Price” means the rates and/or price set out in the Order, which shall be the hire charge in respect of the hire of Goods and/or the rates and/or price in respect of the purchase of Goods and/or Services.

“Services” means any services which the Supplier is to supply or has supplied to the Contractor either by way of sale or hire.

“Site” means the Site described on the face of the Order.

“Specification” means the description of the Goods and/or Services set out in the Order and/or any documents, drawings, samples or patterns referred to in the Order or issued by the Contractor to the Supplier pursuant to the issue of the Order.

“Supplier” means the person or persons whether incorporated or not named on the face of or otherwise identified in the Order.

“Third Party Contract” means a contract between the Contractor and a third party resulting in an Order being placed.

2. Formation, Cancellation and Variation

2.1 Subject to any variation under **Clause 2.2** these Conditions shall form the contract for the purchase and/or hire of Goods and/or Services to the exclusion of all other terms and conditions and all previous oral or written representations including any terms and conditions which the Supplier purports to apply under any purchase order, confirmation of order, delivery note, advice note, invoice or similar document, whether or not such document is referred to in this Order.

2.2 Any variation to these Conditions and/or the Order shall have no effect unless expressly agreed in writing and signed by a director of the Contractor or anyone authorised in writing by a director.

2.3 In the event of a conflict between any of these Conditions and any specific term or condition referred to on the face of an Order, the latter shall prevail.

2.4 An Order placed by the Contractor which has not been accepted or rejected by the Supplier in writing shall be deemed accepted by the Supplier upon commencement of manufacture or upon delivery of the Goods and/or performance of the Services, whichever is the earlier.

2.5 No Order which the Supplier has accepted may be cancelled or varied by the Supplier except with the written agreement of the Contractor and on terms that the Supplier shall indemnify the Contractor against all losses (including, but not limited to, direct, indirect or consequential loss all three terms shall include without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), costs (including, but not limited to, the additional costs of purchasing the Goods and/or Services elsewhere), damages, charges and expenses incurred by the Contractor as a result of such cancellation.

2.6 Without prejudice to **Clause 2.7**, an Order may be varied or cancelled in whole or in part by the Contractor at any time by giving written notice to the Supplier. The Supplier will comply with reasonable variations requested by the Contractor, notifying the Contractor in writing of any impact such variations may have on the price of the Goods and/or Services and, subject to **Clause 6.1**, agreeing reasonable price variations with the Contractor. If an Order is cancelled in whole or in part up to the date of acceptance or deemed acceptance of the Order by the Contractor, the Contractor shall have no liability to the Supplier but if an Order is cancelled after that date the Supplier shall discontinue all work pursuant to that Order (or the relevant part as the case may be) and, subject to **Clause 2.7**, the Contractor shall pay to the Supplier such proportion of the price as may be fair and reasonable having regard to the value of the work done. For the avoidance of doubt, this shall not include any payment for direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss).

2.7 If the Contractor cancels or varies an Order as a result of the cancellation or variation of a Third Party Contract the Supplier shall only be entitled to such payment as is to be paid to the Contractor pursuant to the terms of the Third Party Contract.

2.8 Where the quantities in the Order are expressed to be approximate, the Contractor does not guarantee that the full approximate quantity will be taken up or hired, and shall only pay for the quantity actually taken or hired by the Contractor.

2.9 The Contractor shall have no liability whatsoever for any orders not placed on the Contractor's official printed forms and executed by a duly authorised person.

3. Delivery/Performance

3.1 Delivery of the Goods and/or performance of the Services shall be made, save as agreed otherwise, to the Site indicated on the Order and the Supplier shall arrange for carriage to the Site delivery address stated on the face of the Order (the carrier being deemed to be the Supplier's agent).

3.2 Delivery of the Goods shall be made and/or performance of the Services shall take place at the times and dates indicated on the Order (such times and dates being of the essence) or if no times are specified then within a reasonable time from the date of the Order and during the normal working hours at the Site delivery address up to 4pm. The Supplier shall notify the Contractor immediately of any anticipated delay in delivery and/or performance. 48 hours prior notice of the delivery must be given by the Supplier to the Contractor. No delivery is accepted after 4pm on any working day unless otherwise agreed by the Contractor.

3.3 If the Supplier fails to deliver the Goods and/or perform the Services (or any of them) in accordance with **Clause 3.2**, the Contractor shall be entitled to terminate the contract for the supply or hire of Goods and/or Services and to claim for all losses (including, but not limited to, direct, indirect and consequential loss, all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), costs (including, but not limited to, the additional costs of purchasing or hiring the Goods and/or the Services elsewhere), damages, charges and expenses incurred by the Contractor as a result of such termination.

3.4 The Goods and/or Services shall only be deemed to be delivered and/or performed once the Supplier has ensured that the duly authorised representative of the Contractor named on the face of the Order or such other person nominated as an authorised representative by the Contractor from time to time signs a delivery note to confirm delivery of the Goods and/or performance of the Services but any such signature shall not be evidence that the Goods delivered comply with **Clause 8.1** or **Clause 16** or are of the correct quantity, or that the Services performed are accepted.

3.5 If the Contractor so requests, delivery of the Goods and/or performance of the Services shall be provided in instalments on dates specified by the Contractor.

3.6 If, for any reason, the Contractor is unable to take delivery of the Goods on the stated delivery date the Supplier shall, at its expense, store or arrange for the storage of the Goods for a reasonable time and shall safeguard the Goods and take all reasonable steps to prevent their deterioration until their actual delivery.

3.7 The Supplier shall, at the Contractor's option, immediately repair or replace, free of charge, any Goods that have been damaged and immediately provide free of charge any Goods not delivered when notified by the Contractor of the non delivery and/or damage.

4. Packaging

4.1 Without prejudice and in addition to **Clause 9** the Supplier shall ensure that the Goods are properly packaged and secured in such a manner as to reach the required Site delivery address in good condition and are labelled in accordance with normal industry standards bearing a description of the contents, the weight of the contents and the Contractor's order number on each package. Any dangerous Goods (such as, but not limited to, toxic Goods) shall be prominently marked as such and shall contain the appropriate warnings and advice on handling.

4.2 The Contractor shall, on receipt of a written request from the Supplier to be received by the Contractor no later than the delivery date stated on the face of the Order, return any materials (such as, but not limited to, pallets and gas bottles), to the Supplier at the Supplier's risk and expense but the Contractor shall not be obliged to return any packaging materials.

5. Risk/Title

5.1 Risk of damage to or loss of the Goods shall pass to the Contractor at the time of completion of delivery to the Contractor as specified in **Clause 3.4**.

5.2 Save in respect of the hire of Goods the property in the Goods shall pass to the Contractor on the earlier of payment for the Goods or delivery of the Goods to the required Site delivery address.

5.3 Save in respect of the hire of Goods the Supplier grants the Contractor, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or to recover them where payment for the Goods has been made.

5.4 Save in respect of the hire of Goods before the property in the Goods has passed to the Contractor, it may sell the Goods to a third party on an arm's length basis.

6. Price

6.1 The Price for the supply and/or hire of the Goods and/or the Services shall be the price set out on the Order and cannot be increased unless agreed in writing by the Contractor.

6.2 The Price for the Goods and/or the Services is, unless otherwise specified, inclusive of travel time, packaging, freight, insurance, hire and delivery charges and all necessary drawings, testing certificates, operating instructions, maintenance manuals, mill certificates, fabrication reports and the like (in the number of copies specified).

6.3 Unless otherwise specifically stated the Price for the Goods and/or Services excludes Value Added Tax (as defined by the Finance Act 1972 or any re-enactment or amendment thereof or substitution thereof) but is inclusive of all other taxes or duties of whatsoever kind.

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7. Payment

- 7.1 Payment for the Goods and/or Services shall, unless stated otherwise on the face of the Order or as otherwise previously agreed between the Supplier and the Contractor, be made at the end of the month following the month in which:
- 7.1.1 the Goods have been delivered in full; or
 - 7.1.2 the period of hire of the Goods has expired; or
 - 7.1.3 the Services have been satisfactorily completed in accordance with these Conditions.
- ("The Due Date")
- 7.2 The Contractor shall not be liable to pay for any Goods and/or Services supplied in excess of the quantity or quantities specified on the face of the Order.
- 7.3 It is a condition precedent for payment of the Goods and/or Services that the Supplier issues an invoice to the Contractor in respect of each Order or part thereof following the delivery or period of hire of Goods, or satisfactory completion of the Services as detailed in **Clause 7.1**, and issues to the Contractor a monthly statement of account which details any and all invoices unpaid at each calendar month end within 7 days of the calendar month end.
- 7.4 The Supplier shall ensure that the Contractor's order number is clearly printed on all invoices.
- 7.5 Interest becomes due to the Supplier on overdue payments as defined in clause 7.6 at a rate of 1% above the official Bank of England base rate of interest. The Supplier acknowledges that such contractual rate of interest amounts to a substantial remedy in respect of any overdue payment.
- 7.6 A payment will not be treated as overdue for the purposes of Clause 7.5 until one calendar month has elapsed following the expiry of the Due Date as detailed in **Clause 7.1**.

8. Quality

- 8.1 The Supplier warrants that upon delivery the Goods shall be new unless the Specification provides otherwise and that upon delivery the Goods shall:
- 8.1.1 be of first class quality and conform with the quantities, descriptions, drawings, Specification, standard and stipulations contained in or annexed to the Order and any literature issued in connection with the Goods and to all relevant UK and EU standards and specifications;
 - 8.1.2 be fit for any purpose for which the Goods are commonly supplied;
 - 8.1.3 be fit for any particular purpose for which the Goods are being bought if the Contractor has made known that purpose to the Supplier in writing;
 - 8.1.4 be so designed and manufactured as to be safe and without risk to health or property when properly used; and
 - 8.1.5 conform with any samples or patterns provided by the Supplier which have been accepted by the Contractor.
- 8.2 The Supplier warrants that the Services shall be carried out in accordance with highest professional standards, in an expert and diligent manner, by appropriately qualified and trained personnel, shall conform in all respects with all descriptions, Specifications, or other requirements in or referred to in the Order or any literature issued in connection with the Services and that the products of the Services shall be free from defects. The Supplier shall comply with and observe all lawful and proper requests which may be made from time to time by the Contractor or its authorised representatives, agents, officers or employees.
- 8.3 The Supplier shall, if the Contractor notifies it of any defect in the quality of the Goods and/or acceptability in the quality of the Services, at the Contractor's option, and at the Supplier's expense (together with all costs of delivery, installation and the like), immediately replace or repair such Goods or the goods upon which the Services were performed (or in either case the defective part) or carry out the Services again to the required standard or refund the price of such defective Goods or unacceptable Services as notified under this Clause at the pro rata contract rate.

- 8.4 The Supplier shall, upon demand, fully indemnify and keep indemnified the Contractor from and against all damages, losses, actions, costs, expenses, claims or demands whatsoever (including, but not limited to, direct, indirect or consequential loss, all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) suffered by the Contractor as a result of a defect in the quality of the Goods and/or unacceptability in the quality of the Services or other breach or negligent performance or failure in performance of a contract for Goods and/or Services and in addition will repair, replace, reinstate or reimburse the cost at the Contractor's option of the damages, losses, actions, costs, expenses, claims or demands whatsoever (including, but not limited to, direct, indirect or consequential loss, all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) suffered by the Contractor.
- 8.5 If stated on the Order or the Conditions the Supplier shall, prior to completion of its obligations under this Order or at such time and with such person as the Contractor may stipulate, enter into an agreement with such person or persons as have entered into a Third Party Contract with the Contractor, and shall warrant to such person or persons that the Goods and Services have been delivered and/or provided in accordance with the terms of this Order.

9. Health & Safety

- 9.1 Without prejudice and in addition to **Clause 8.1.4** the Supplier warrants that Goods supplied shall comply with, and contractors and employees of the Supplier working at the Contractor's site or at any other site pursuant to **Clause 3.1** shall work at all times according to, the site safety regulations, to section 6 of The Health and Safety at Work Act 1974, the Consumer Protection Act 1987, The Health and Safety Commission Guidance Note General Series 8 Articles and Substances for Use at Work August 1977, COSHH Regulations 1989, regulation 12 of the Noise at Work Regulations 1989 and any amendment, modification or re enactment of any of the above. The Supplier shall supply sufficient information to the Contractor to enable the Goods to be used safely.

10. Progress, Inspection and Quality Assurance

- 10.1 The Contractor (and any person appointed by the Contractor, any representative of the Contractor's Employer, or its agent or of any government department concerned) may, on giving reasonable notice to the Supplier, inspect the progress of the manufacture of the Goods or any part of them and subject the Goods to its quality assurance procedure and tests at any time before delivery of the Goods or before acceptance at the place of delivery. The Contractor may also inspect any Services being performed. No such inspection or test, or failure to inspect or test, shall relieve the Supplier of any liability or imply acceptance or approval by the Contractor.
- 10.2 Where indicated on the face of the Order, the Supplier shall notify the Contractor prior to any work tests being carried out and attendance at the same shall be deemed to be an inspection under **Clause 10.1**.
- 10.3 The Supplier shall, at its expense, furnish such certificates of analysis, inspection or origin or weigh tickets as the Contractor requires and provide the Contractor with all the facilities it may require to exercise its right under **Clause 10.1** at no extra cost to the Contractor.

11. Intellectual Property

- 11.1 Without prejudice and in addition to **Clause 8.4** the Supplier agrees to hold harmless and to indemnify and keep indemnified the Contractor from and against all costs (including the costs of enforcement), expenses, liabilities, injuries, losses (which includes direct, indirect and consequential loss and loss of profit), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Contractor incurs relating to infringement of any patent and other intellectual property rights in respect of the Goods and/or Services.

- 11.2 The Contractor's approval of the Supplier's drawings does not mean the Contractor accepts responsibility for any design liability. Where there are discrepancies between drawings and Specification and/or any other documents forming part of the Order, the Supplier shall immediately notify the Contractor in writing of such discrepancies for the Contractor's determination.

11.3

- 11.3.1 In consideration of the payment of £1 (being included within the Price) by the Contractor to the Supplier (receipt of which is hereby acknowledged), the Supplier assigns to the Contractor with full title guarantee all the copyright in the drawings, details, plans and other documents of any nature whatsoever and any designs contained in them which have been or are hereafter provided by the Supplier in the course of performing its obligations under this Order (the "Documents") and (by way of present assignment of the future copyright) all such future copyright.

11.3.2

- The Supplier agrees to execute such further documents, and take such actions and do such things, as may be reasonably requested by the Contractor to give full effect to the terms of **Clause 11.3.1** (including assisting the Contractor in the resolution of any question concerning the copyright in the Services), and to secure the full right, title and interest of the Contractor in the Documents.

11.3.3

- The Supplier warrants that the Documents are its original work and that they have not been copied wholly or substantially from any other work or material, and that the exercise by the Contractor of the rights assigned to it will not infringe the rights of any third party.

11.3.4

- The Supplier waives all its moral rights arising from the Services pursuant to section 78 of the Copyright, Designs and Patents Act 1988 or otherwise insofar as it is lawful to do so.

11.3.5

- The Contractor is hereby granted an irrevocable, non-exclusive, royalty free licence to copy and use the Documents.

11.3.6

- All Documents will only incorporate the Contractor's logo or such other logo as the Contractor shall approve in writing.

11.4

- This Order and the subject matter thereof shall be treated as confidential between the Contractor and Supplier and shall not be disclosed by the Supplier or any sub contractor or assignee of the Supplier or to any third party or used by the Supplier or any sub contractor or assignee for advertisement display for publication without the Contractor's prior consent in writing.

11.5

- The Supplier agrees neither to quote nor supply parts made to the Contractor's specification, design or drawing to any third party without the Contractor's prior consent in writing.

12. Insurance

- 12.1 The Supplier shall have and maintain adequate insurance in relation to all such risks arising out of or in relation to this Order for such amounts as may be detailed in this Order and/or as reasonably estimated to cover the risks which can be reasonably envisaged arising out of fulfilling the Order and produce on demand the policies of such insurance, and such insurance shall continue notwithstanding any termination pursuant to **Clause 13**.
- 12.2 The Supplier will maintain, with reputable insurers carrying on business in the European Union, relevant insurance in the amount as detailed in **Clause 12.1** for any one occurrence or series of occurrences arising out of any one event in relation to the Order provided that such insurance is generally available in the market to members of the Supplier's trade or profession at a commercially realistic cost and (for the avoidance of doubt) provided further that payment of any increased or additional premiums required by insurers by reason of the Supplier's own claims record or other acts omissions matters or things peculiar to the Supplier will be deemed to be within the Supplier's obligation. The Supplier will notify the Contractor in writing from time to time of any change in its insurance arrangements and, within 7 days of the Contractor's reasonable request at any time, the Supplier will produce for inspection

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documentary evidence as to its compliance with this Clause and that payment has been made in respect of the last preceding premium payable thereunder.

13. Termination and Suspension

13.1 Without prejudice to any other rights which the Contractor may have, the Contractor shall be entitled immediately to terminate any Order for Goods and/or Services in whole or part and/or be reimbursed for loss and expense (whether arising directly or indirectly) if any of the following circumstances or events occur or is likely to occur:

13.1.1 the Supplier is in breach of any of its obligations under the contract which, if capable of remedy, the Supplier has not remedied within 7 days of receiving written notice from the Contractor requiring it to be remedied; or

13.1.2 fails to complete and deliver up the whole or any portion of the Goods and/or Services by the time or times specified or by such amended time or times as may be allowed by the Contractor (and if no times are specified on the face of the Order within a reasonable time);

13.1.3 fails strictly to comply with the description, Specification and drawings relating to the Goods to be supplied or hired or the Services to be carried out and/or the failure to comply with British Standard specifications and conditions where applicable;

13.1.4 makes any arrangements with its creditors, has a Receiving Order made against it or commits an act of bankruptcy or, being a limited company, goes into liquidation or has a Receiver or Administrator appointed or fails to pay its debts as they fall due;

13.1.5 the Goods to be supplied or hired by the Supplier or the Services to be carried out by the Supplier being below the specified standard or failing to pass such inspection or test as may be required by the Contractor or by the Contractor's customer or his agent or by any Government department concerned;

13.1.6 the Supplier suffers a distress or execution or other legal process to be levied or enforced or sued upon or against any part of the property, assets or revenue of the Supplier which is not discharged or stayed within 7 days.

13.2 In the event of any strike, lockout, fire, explosion or accident or of any stoppage of the Contractor's business or work beyond the Contractor's control which may prevent or hinder the use of the Goods or Services, the delivery of such Goods or the completion of such Services and the payment therefor may be suspended or postponed at the Contractor's option until the circumstances preventing or hindering the use of such Goods or Services has ceased.

14. General

14.1 Any waiver by the Contractor of any provision of these Conditions shall be made expressly in writing and not be considered to be a waiver of any subsequent breach of the same or any other provision of these conditions.

14.2 The Contractor may assign, transfer, license or sub contract all or any part of its rights or obligations under this Order or any contract for Goods and/or Services without the Supplier's consent. The contract comprising this Order is personal to the Supplier who may not assign, transfer, factor, license or sub contract all or any of its rights or obligations under the contract without the Contractor's express written consent. The Supplier shall give the Contractor a separate and specific formal written request in the event that it wishes to so assign, transfer, factor, license or sub-contract all or any of its rights or obligations under the contract. A notice on the face of an invoice or a statement of account in the name of the sub-contractor, transferee, factoring company, or assignee is insufficient to constitute a separate and specific formal written request under this Clause. Where such consent is given it is conditional upon the sub-contractor, transferee, factoring company, or assignee accepting the conditions in writing, and upon such acceptance the Contractor shall owe no obligations whatsoever (whether accrued already or not) to the Supplier. No Payment shall become due under these

Conditions until all such required written notices under this Clause are in place to the satisfaction of the Contractor.

14.3 If any of these Conditions are found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable that Condition shall to the extent of such illegality, invalidity or unenforceability be deemed severable and the other provisions of the contract for Goods and/or Services and the remainder of such Condition shall not be effected.

14.4 The formation, construction, performance, validity and all aspects of the contract comprising this Order are governed by English law. The "contra proferentem" rule of construction will not apply to this Order, both parties having had the opportunity to take legal advice on it.

14.5 Nothing in this Order confers or purports to confer on any third party any benefit or any right to enforce any term of the Order.

14.6 No failure or delay by the Contractor to exercise any right, power, or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of any other right, power or remedy.

14.7 Any notice required to be given by the Supplier in connection with the Order will be in writing addressed to the Contractor at its registered office, or principal place of business and will be delivered by hand, or first class post or special delivery post. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.

15. Temporary and/or Agency Labour

15.1 Where and to the extent that the Services comprise the hire or supply of a temporary and/or agency worker or workers ("Temporary Labour") or where Temporary Labour is provided ancillary to the hire of plant or equipment by the Supplier the following conditions shall apply.

15.2 The rate or price agreed for the Temporary Labour shall remain fixed for the duration of the supply unless the Contractor expressly agrees in writing to an increase.

15.3 No amount is payable by the Contractor to the Supplier in respect of lunch breaks or other non-statutory breaks.

15.4 In addition to the requirements of **Clause 8.2**, the Supplier guarantees to provide the Temporary Labour for the period stated on the face of the Order, at the required level of skill, experience and expertise as is required by the Contractor and as would be expected and inferred from the job description of the Temporary Labour provided.

15.5 The Supplier shall provide the Contractor on a weekly basis with time sheets for all Temporary Labour supplied for the full period stated on the face of the Order or for such period as may be extended or reduced in writing by the Contractor. Unless specifically stated on the timesheet a lunch break of one hour will be assumed for each day worked.

15.6 It is a condition precedent of payment for the Services that such time sheets shall have been signed by the duly authorised representative of the Contractor identified on the face of the Order or such other person nominated as an authorised representative by the Contractor from time to time.

15.7 The Contractor does not assume any liability for paying any Temporary Labour directly. All payments in respect of the supply of Temporary Labour shall be made to the Supplier, and the Supplier shall be liable for payment or deduction of all wages, payments, statutory contributions in respect of earnings related insurance and the administration of Schedule E Income Tax (PAYE) applicable to and in respect of the Temporary Labour.

15.8 The Supplier warrants the suitability of the Temporary Labour for the Contractor's purposes. In the event that the Contractor notifies the Supplier of the unsuitability of the Temporary Labour or part thereof, the Supplier shall within 8 hours supply replacement Temporary Labour at no additional cost to the Contractor. All Temporary Labour supplied by the Supplier shall be employed under a contract of service by the Supplier.

15.9 For the avoidance of doubt the indemnity within **Clause 8.4** shall apply in respect of the supply of Temporary Labour and in respect of the acts and omissions of any individual supplied as part of the same.

15.10 Where the Temporary Labour is also a driver or fork lift driver the following conditions shall apply to the extent that they are applicable:

a) As far as reasonably possible references of the driver will be checked and appropriate driving licences and driving permits will be examined by the Supplier and checked to be current and valid.

b) Providing the driver shall have worked for a user of the Supplier during the seven days immediately preceding commencement of the engagement by the Contractor, the Supplier shall provide the Contractor on request with such information as is available to assist the Contractor in complying with the relevant provisions of the relevant Transport Act.

c) The Supplier will indemnify the Contractor in respect of costs of defending any prosecution resulting from any incorrect information having been given to the Contractor by the Supplier in respect of hours worked for another Employer through the introduction of the driver by the Supplier during the applicable part of and in the working week during which the employment of the driver by the Contractor commences.

d) The Contractor is responsible for ensuring that drivers comply with all provisions of the Transport Act 1968 and all other road transport and Road Traffic legislation. It is the Suppliers responsibility to take proper steps in relation to the insurance, maintenance and safety of the vehicles and legality of documents and effect all other necessary liability insurances including those of the type contemplated in **Clause 12** above.

16. Hire of Goods

16.1 Wherever the Goods are supplied by way of hire to the Contractor the following additional terms shall apply, but without prejudice to the generality of the foregoing terms and conditions.

16.2 The Goods shall at all times remain the property of the Supplier and the Contractor agrees not to sell, sub-hire or otherwise dispose of the Goods.

16.3 The duration of the hire of the Goods shall be as stated on the face of the Order or for such period as may be extended or reduced by the Contractor.

16.4 The Contractor shall be entitled to give written notice at any time to the Supplier of its termination of the hire of the Goods whereupon the Contractor shall make the Goods available for collection by the Supplier, or if agreed the Contractor shall return the Goods to the Supplier.

16.5 The Contractor gives no warranty as to the physical conditions of the Site stated on the face of the Order for delivery of the Goods, nor as to safe access conditions, and the Supplier shall exercise its best endeavours to deliver the Goods where and in such manner as required by the Contractor.

16.6 The Supplier shall have no right or licence whatsoever to enter onto the Site or any other place in the possession or control of the Contractor where the Goods are located for the purposes of inspecting, testing, repairing, servicing, replacing, re-possessing or collecting the Goods without the prior written consent of the Contractor.

16.7 The Contractor shall not be liable for fair wear and tear of the Goods ordinarily caused by the use of the Goods, nor for the costs of cleaning, testing, repairing, servicing, or replacing the Goods following termination of the hire of the same. In the event of lost or stolen goods the Contractor's liability shall be limited to the reasonable value thereof having regard to its age and condition.

16.8 The Contractor shall not be liable to the Supplier for any costs, losses, expenses or liabilities which the Supplier incurs as a result of any need, following the return or collection of the Goods, for inspection, tests, repairs, servicing, or replacement of the same, nor for any lost hire charges or other costs suffered as a consequence,

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save only for any liabilities arising from death or personal injury resulting from the Contractor's negligence.

16.9 It is the responsibility of the Supplier to fit an industry recognised tracking device to heavy plant items (such as but not limited to forklift trucks, diggers, excavators and rollers) supplied under this Order to the Contractor. The Contractor shall not be liable for the loss or theft of any heavy plant items not fitted with an industry recognised tracking device.

16.10 For the avoidance of doubt the indemnity within **Clause 8.4** shall apply in respect of the hire of Goods to the Contractor.

17. Site Security

17.1 Where and to the extent that the Services comprise the provision of site security and/or guarding services ("Site Security") by the Supplier the following conditions shall apply.

17.2 The Supplier shall operate and maintain a security system for the Contractor in respect of the Site as set out on the face of the Order or as otherwise agreed by the Contractor.

17.3 In addition to the requirements of **Clause 8.2**, the Supplier guarantees to provide the Site Security at the required level of skill, experience and expertise as is required by the Contractor and as would be expected to properly fulfil the specific terms of the Order.

17.4 The duration of the supply of the Site Security shall be as stated on the face of the Order or for such period as may be extended or reduced in writing by the Contractor.

17.5 Throughout the duration of the provision of the Site Security the Supplier agrees that:

17.5.1 all security officers and personnel employed in the performance of the Supplier's duties have been or will have been subjected to a thorough medical inspection and passed fit for their duties;

17.5.2 all such security officers and personnel will be supervised by an inspector or other senior officer of the Supplier who will make periodic check visits;

17.5.3 all equipment instruments and guard dogs used by such security officers and/or the Supplier will be supplied by the Supplier;

17.5.4 a nightly record of attendance at the Site will be kept by the security officer in charge of the Site and/or the Supplier who will note in that record all irregularities or incidents discovered by him by the Contractor or by the police;

17.5.5 the security officer in charge of the Site and/or the Supplier will at all times properly look after the keys entrusted to the Supplier for the purpose of carrying out the terms of this Order.

17.6 The Supplier will insure its equipment, instruments, guard dogs, security officers and personnel engaged in the performance of this Order against loss and/or injury sustained by them in the course of carrying out their duties in pursuance of it and unless such loss and/or injury shall be due to the act neglect or default of the Contractor or of any person for whom the Contractor is responsible the Supplier will indemnify the Contractor against all actions claims and demands in respect of such loss and/or injury.

17.7 Sign plates indicating that the Site is being watched by the Supplier (and that guard dogs are in use at the Site if forming part of the Services) will be supplied on loan to the Contractor and attached to conspicuous parts of the Site upon request.

17.8 The required number of security officers stated on the face of the Order, or as otherwise agreed by the Contractor, shall be trained and uniformed and in attendance on the Site every night continuously between the hours stated on the face of the Order, or as otherwise agreed by the Contractor, and shall carry out a minimum of one detailed round of inspection per hour during such period or as otherwise agreed appropriate to the Site.

17.9 The required number of trained guard dogs stated on the face of the Order with their handler, or as otherwise agreed by the Contractor, will be in attendance on the Site every night between the hours stated on the face of the Order, or as otherwise agreed by the Contractor, and shall carry out as many detailed rounds of inspection during such period as stated on the face of the Order or as otherwise agreed appropriate to the Site.

17.10 Not less than the number of mobile patrols with men and vehicles per patrol as stated on the face of the Order, or as otherwise agreed by the Contractor, shall be in attendance at the Site every night between the hours stated on the face of the Order, or as otherwise agreed by the Contractor, and shall carry out as many detailed rounds of inspection during such period as stated on the face of the Order or as otherwise agreed appropriate to the Site.

17.11 The required number of closed circuit television cameras or other such security monitoring equipment stated on the face of the Order, or as otherwise agreed by the Contractor, shall be supplied, in operation, and monitored between the hours stated on the face of the Order, or as otherwise agreed by the Contractor, with any incidents reported to the Police, the Contractor, or other nominated third party and appropriate action taken by the Supplier in a timely manner to ensure the minimum damage, loss or injury is sustained to the Site, or to property belonging to or on loan or hired to the Contractor, or to any persons present on or around the Site.

17.12 For the avoidance of doubt the indemnity within **Clause 8.4** shall apply in respect of the supply of Site Security and in respect of any acts and omissions of any individual supplied as part of the same.

Head Office