

SCHEDULE FOR SUPPLY OF GOODS

The following provisions shall apply to the supply of Goods by Performance Projects Limited as part of a Contract for Services with a Customer and the provisions of this Schedule shall be in addition to and incorporated into the Consultant's standard Terms and Conditions for the Supply of Services.

In this Schedule, the definitions used shall be those stated the Consultant's Terms and Conditions for the Supply of Services.

1. GOODS

- 1.1 The Goods are described in any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and the Consultant ("**Goods Specification**").
- 1.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied or approved by the Customer (whether or not such Goods Specification is produced by the Consultant or a third party supplier), the Customer shall indemnify the Consultant against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Consultant in connection with any claim made against the Consultant for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Consultant's use of the Goods Specification. This clause 1.2 shall survive termination of the Contract.
- 1.3 The Consultant reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

2. DELIVERY OF GOODS

- 2.1 The Consultant shall ensure that each delivery of the Goods is accompanied by a delivery note which shows all relevant Customer and Consultant reference numbers, the type and quantity, special storage instructions (if any) and, if the order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 2.2 The Consultant shall arrange the delivery of the Goods to the location set out in the Specification or such other location as the parties may agree (**Delivery Location**) at any time after the Consultant notifies the Customer that the Goods are ready.
- 2.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 2.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Consultant shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Consultant with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 2.5 If the Customer fails to accept or take delivery of the Goods within 10 Business Days of the Consultant notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Consultant's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 11th Business Day following the day on which the Consultant notified the Customer that the Goods were ready; and
 - (b) the Consultant shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 2.6 If 20 Business Days after the Consultant notified the Customer that the Goods were ready for delivery the Customer has not accepted or taken delivery of them, the Consultant may resell or otherwise dispose of part or all of the Goods.
- 2.7 The Customer shall not be entitled to reject the Goods if the Consultant delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 2.8 If agreed in the Specification the Consultant may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

3. QUALITY OF GOODS

- 3.1 The Consultant warrants that on delivery the Goods shall:
- (a) conform in all material respects with their description and any applicable Goods Specification;
 - (b) be free from material defects in design, material and workmanship.
- 3.2 Subject to clause 3.3, if:
- (a) the Customer gives notice within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 3.1;
 - (b) the Consultant is given a reasonable opportunity of examining such Goods; and
 - (c) the Customer (if asked to do so by the Consultant) returns such Goods to the Consultant's place of business at the Consultant's cost,
- the Consultant shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

3.3 The Consultant shall not be liable for the Goods' failure to comply with the warranty in clause 3.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 3.2;
- (b) the defect arises because the Customer failed to follow the Consultant's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade or industry practice;
- (c) the defect arises as a result of the Consultant following any drawing, design or Goods Specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of the Consultant;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

3.4 Except as provided in this clause 3, the Consultant shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 3.1.

3.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Consultant under clause 3.2.

4. TITLE AND RISK

4.1 The risk in the Goods shall pass to the Customer on completion of delivery.

4.2 Title to the Goods shall not pass to the Customer until the Consultant has received payment in full (in cleared funds) for:

- (a) the Goods; and
- (b) any other goods or Services that the Consultant has supplied to the Customer.

4.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) hold the Goods on a fiduciary basis as the Consultant's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Consultant's property;

- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Consultant's behalf from the date of delivery;
- (e) notify the Consultant immediately if it becomes subject to any of the events listed in clause 9.1 (b) to (e) (inclusive) in the Consultant's Terms and Conditions for the Supply of Services; and
- (f) give the Consultant such information relating to the Goods as the Consultant may require from time to time,

but the Customer may use the Goods in the ordinary course of its business.

- 4.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1 (b) to (e) (inclusive), or the Consultant reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been irrevocably incorporated into another product, and without limiting any other right or remedy the Consultant may have, the Consultant may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

5. CHARGES AND PAYMENT

- 5.1 The price for Goods shall be the price set out in the Specification or, if no price is quoted, the price set out in the Consultant's published price list as at the date of delivery. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.

- 5.2 The Consultant reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Consultant that is due to:

- (i) any factor beyond the control of the Consultant (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Consultant adequate or accurate information or instructions in respect of the Goods.

5.3 In respect of Goods, the Consultant shall invoice the Customer on or at any time after completion of delivery.

6. ADDITIONAL LIMITATIONS ON LIABILITY

In addition to the terms set out in Clause 8 of the Consultant's Terms and Conditions for the Supply of Services which shall also apply to the Goods, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.