

ORDER TERMS AND CONDITIONS

1. GENERAL

These Terms and Conditions apply to and constitute the whole of the terms and conditions of every contract entered into by Roger Bullivant Limited ("we" or "us" or "the Company") with every Supplier (the party identified as the Supplier on the face of our Order) of goods and/or services and/or plant and equipment whether by sale or by hire to the Company unless otherwise specifically agreed by us in writing signed by one of our directors. In circumstances where our Order could be construed as a counter-offer to an offer to made by the Supplier, any action taken by the Supplier to fulfil our Order shall be deemed for all purposes to constitute acceptance of these Terms and Conditions and to exclude any terms and conditions quoted by the Supplier unless otherwise agreed by us in writing as above. None of our employees or agents other than a director of the Company has any authority to vary any of these Terms and Conditions nor to contract with the Supplier on the Supplier's terms and conditions.

2. AUTHORISATION

We accept no liability whatsoever and will not pay for any goods and/or services and/or plant and equipment supplied to us otherwise than against and in strict conformity with our Order as placed on our standard form of order and duly signed by an authorised representative of the Company. The Terms and Conditions of our Order supersede any previous oral or written indications of our intentions with regard to any particular proposed supply of goods and/or services and/or plant and equipment to us.

3. SPECIFICATION AND FITNESS FOR PURPOSE

The goods and/or services and/or plant and equipment supplied by the Supplier, to which the Supplier warrants he or it has good unencumbered title, must conform in every respect with our requirements or specifications as made known to the Supplier, and to any relevant E.E.C. or B.S. specifications, and must always otherwise be of merchantable quality, free from defects in material or workmanship, and fit for any purpose for which we make known to the Supplier we are purchasing or hiring them from and also for any purpose for which goods or services and/or plant and equipment of the type concerned are normally and reasonably employed. Failure by the Supplier to comply with these requirements, all of which are conditions of the contract between us and the Supplier, will lead to the rejection of the goods and services and/or plant and equipment without any liability whatsoever on our part to the Supplier. If our Order is based on the Supplier's sample or description, the goods or services and/or plant and equipment actually supplied must conform in every respect with that sample or description in order to be accepted by us. Any representations made by the Supplier as to the quality or performance of the goods or services and/or plant and equipment ordered by us, whether in any tender or quotation or in any other form of promotional material shall be deemed to be incorporated into our contract with the Supplier as conditions (and not as mere warranties) of the contract.

4. PRICE

Unless otherwise stated on our Order or agreed in writing, the price stipulated on our Order is a fixed price for the purchase or hire of the goods and/or services and/or plant and equipment concerned and includes the cost of delivery to or at the stated destination or site. No extra charge or price increases of any description will be accepted by us without our agreement thereto in writing being obtained by the Supplier before delivery of the goods and/or services and/or plant and equipment.

5. RISK AND TITLE

Notwithstanding any attempt by the Supplier to retain title to any goods and/or plant and equipment sold to us after their delivery, or to transfer the risk of loss of or damage to such goods and/or plant and equipment to us before their delivery, title and risk shall pass to us on delivery and at no other time. The passing of title shall, however, be without prejudice to our right at our sole and absolute discretion to reject any goods and/or plant and equipment after their delivery to us and at any time within 28 days of our having had a reasonable opportunity to examine them if on examination we form the view that they do not comply with the terms of our contract with the Supplier. On our giving notice in writing of such rejection, title and risk shall revert to the Supplier who shall at his expense then repossess the goods and/or plant and equipment promptly and in any event within seven days of our giving such notice.

6. PAYMENT

Payment will normally be made at the end of the second month following the month in which goods and/or services and/or plant and equipment are delivered or supplied to us. In order to ensure payment accordingly, the Supplier must (a) within three working days of despatch of the goods and/or plant and equipment, or of completion of performance of the service, send an accurate invoice in duplicate to our registered office address, (b) quote on such invoices the reference number of the Order concerned, and (c) provide monthly statements to our registered office at the end of each month identifying those invoices delivered by the Supplier (specifying the dates and Order references of those invoices) and remaining due for payment. Failure by the Supplier to comply with these requirements is likely to lead to delay in payment by the Company.

7. DELIVERY

- 7.1 All goods and/or plant and equipment delivered to us must be safely and adequately packed so as to prevent damage during transit, off-loading and delivery. We will not pay for or return packaging or pallets unless previously agreed in writing.
- 7.2 Unless otherwise specified by us in writing delivery of goods and/or plant and equipment to us shall not take place until they have been off-loaded at our premises, or at the delivery site if different, from the carrying vehicle. The process of off-loading, even if carried out by our personnel, shall be at the risk of the Supplier.
- 7.3 Where our Order specifies a particular delivery date or range of dates, the time by which delivery is effected is to be deemed as being of the essence of the contract between us and the Supplier, and we reserve the right to cancel the contract without any form of liability to us in the event that delivery is delayed beyond the specified date(s). Otherwise, delivery must be effected within a reasonable time and if we consider that time has been exceeded we will notify the Supplier accordingly and by that notice make delivery by a stipulated time of the essence of the contract with the consequences stated above.
- 7.4 Notwithstanding that we may have agreed a price for specified goods and/or plant and equipment which includes, whether expressly so stated or not, an element for carriage, we always reserve the right to make our own alternative delivery arrangements, and if we do so to deduct from the price an allowance equal to the element in that price reflecting the cost to the Supplier of carriage to the delivery address.
- 7.5 The tender of any delivery of goods and/or plant and equipment before any specified delivery date will always be rejected unless our prior written agreement is obtained. Any costs consequent upon such rejection will be for the account of the Supplier.

8. GUARANTEE

Without prejudice to any rights afforded to us by statute, common law, or otherwise, if within a minimum period of twelve months after any goods or services and/or plant and equipment purchased or hired by us have been put into use and have been discovered to be defective, normal wear and tear excepted, the Supplier, on being notified by us of the defect concerned, must at his option remedy the defect either by replacement or repair and always free of charge to us.

9. CANCELLATION

In addition to the specific rights of rejection of goods and/or services and/or plant and equipment mentioned above we shall always have the right to cancel any contract for the supply and/or hire of goods and/or services and/or plant and equipment in circumstances where in our reasonable opinion it is clear that the Supplier will be materially unable to fulfil his or its part of the contract. In these circumstances we may at our option either retain and pay for on a pro rata basis any goods, or the benefit of any services, and/or the hire of any plant and equipment which have by that time been supplied to us or reject the same in which case, insofar as goods and/or plant and equipment are concerned, the Supplier shall attend promptly at our premises and repossess at his expense any goods and/or plant and equipment actually delivered.

10. ASSIGNMENT AND SUB-CONTRACT

The Supplier is not permitted under any circumstances to assign, transfer or sub-contract any part of a contract for the supply and/or hire of goods and/or services and/or plant and equipment without our specific written agreement obtained before the assignment, transfer or sub-contracting is carried out.

11. CONFIDENTIALITY

- 11.1 Our Order and the subject matter thereof are strictly private and confidential between us and the Supplier and shall not be disclosed to any third party whatsoever without our prior written consent.
- 11.2 The use by any Supplier of our name for advertising or publicity purposes is prohibited without our prior written consent.
- 11.3 Any drawings, patents, patterns, detail or information of any kind provided by us to any Supplier of goods and/or services and/or plant and equipment shall always remain our property, shall be held on trust for us by the Supplier, and must be returned to us immediately on demand at the cost of the Supplier. No Supplier will make any such material available in any way, shape or form to any third party without our prior written consent. Any subsequent use by any Supplier for the benefit of his own business of any material which we provide to him for the purposes of our business is prohibited without our prior written consent. Any unauthorised use of any such material will, in addition to the exercise of our rights, lead to a claim by us against the Supplier concerned for an account of any profits thereby derived.

12. INTELLECTUAL PROPERTY

- 12.1 The Supplier, in entering into a contract of supply with us, warrants to us that any goods and/or services and/or plant and equipment to be provided to us by the Supplier are goods and/or services and/or plant and equipment in which the Supplier is legally entitled to deal. In the event of any breach of this warranty leading to claims being made against us by third parties asserting intellectual property rights in respect of any such goods and/or services and/or plant and equipment, the Supplier undertakes to indemnify us on a 100 per cent indemnity basis against any and all liability, loss, damages, claims, costs, fines and expenses whatsoever arising out of or in any way connected with any such action by any such third party.
- 12.2 The Supplier will not under any circumstances without our prior written permission apply for any Letters Patent or Registered Design for Goods based on any information or material which we provide to that Supplier for the purposes of our business.

13. INSURANCE AND INDEMNITY

- 13.1 All materials of whatever type provided by the Company to any Supplier will be fully insured by the Supplier at the Supplier's cost against loss or damage by all risks and perils. In effecting such insurance whether by specific policy or under a general cover the Supplier shall for all purposes be deemed to be acting as our agent and shall hold the proceeds of any claims on any such insurance in respect of loss of or damage to our property in trust for us and apart from the Supplier's general assets. Any such proceeds of claim once received by the Supplier must be remitted to us without delay.
- 13.2 The Supplier undertakes to indemnify us in full on a 100 per cent indemnity basis against any and all liability, loss, damage, claims, costs, fines and expenses whatsoever which we may incur in respect of (a) physical injury to any person or loss of or damage to any property or any other loss or damage arising out of or connected with any defect whatsoever in the goods and/or services and/or plant and equipment supplied to us by the Supplier, or otherwise flowing from any breach by the Supplier of any statutory or other legal duty or caused directly, irrespective of whether or not by negligence, by the acts or omissions of the servants, agents or contractors of the Supplier, and (b) any failure by Supplier to comply with his obligations as to delivery as set out in these Terms and Conditions. For the avoidance of any doubt the indemnity provided by the Supplier shall include liability for indirect, consequential or economic loss as incurred by us on our own part or for which we may be liable to a third party claimant.

14. FORCE MAJEURE

The company will not be under any liability to any Supplier for what would otherwise be or could be considered as any breach of contract or duty by the Company (in particular but without limitation the failure to accept delivery of goods and/or services and/or plant and equipment) which result from any breakdown of plant or apparatus, fire, explosion, accident, strike, lock out, national or local governmental or quasi-governmental restriction (all these by way of example and not by way of limitation) or any other event or cause beyond our control by the exercise of normal endeavours on our part.

15. STATUTORY AND OTHER SIMILAR REQUIREMENTS

All goods and/or services and/or plant and equipment supplied by the Supplier must comply and must continue to comply with all the provisions and requirements applicable to the design, manufacture, supply, and/or use of the goods and/or services and/or plant and equipment concerned, imposed, whether expressly or by implication, by common law or by any statute, statutory instrument, order, directive or regulation in force in the United Kingdom at the time of delivery. In the event that we specify that any goods and/or services and/or plant and equipment supplied to us are to be used in any other country it is the obligation of the Supplier to ascertain the relevant regulations and to ensure that the goods and/or services and/or plant and equipment comply therewith.

16. INSOLVENCY

- 16.1 If in our opinion it is reasonably clear that any Supplier with whom we are dealing is trading while being unable to pay his or its debts we shall be entitled, without incurring any liability whatsoever to that Supplier, to cancel any contract which we may then have with that Supplier for the supply to us of goods and/or services and/or plant and equipment.
- 16.2 In the event that any Supplier with whom we are dealing becomes bankrupt, or goes into liquidation, or goes into administration, or has an administrative receiver appointed over its assets then any and all contracts for the supply by that Supplier of goods and/or services and/or plant and equipment to us shall immediately and automatically at the moment of the occurrence of any of those events be terminated. Further, in such circumstances we have the admitted contractual right to set-off against any sums or amounts due or owing by us to the Supplier any sums or amounts or claims, whether liquidated or unliquidated, owing by the Supplier to us. In the event that the process of set-off produces a balance in favour of the Supplier the payment by us of that balance shall operate to provide us for all purposes with a full and complete discharge of all obligations owed by us to the Supplier.

17. GOVERNING LAW

- 17.1 All contracts between the Company and its Suppliers for the supply and/or hire of goods and/or services and/or plant and equipment shall be subject to and constructed in accordance with English law, and all disputes of claims arising out of connected with all such contracts, their interpretation and their implementation shall be subject to the exclusive jurisdiction of the English courts.
- 17.2 The Company vigorously supports the provisions of the Bribery Act 2010. The Supplier must comply with our Bribery and Corruption Policy, a copy of which is available upon request.

18. NON-WAIVER

No waiver by us on any occasion or occasions of any one or more of our rights against any Supplier shall under any circumstances whatsoever constitute or be deemed to constitute a waiver of any of our other rights or of the right concerned on any other occasion.