



GENERAL PROCUREMENT TERMS AND CONDITIONS G4S FEBRUARY 2011

1. Application of Terms and Conditions

1.1 Unless the Buyer and Seller have entered into a separate written Contract, these terms and conditions shall apply to the exclusion of all other terms and conditions of the Seller (whether received previous or subsequent to the issue of these terms and conditions) on an acceptance of the Purchase Order or any other communication by the Seller to the Buyer. For the avoidance of doubt, the provision of any order confirmation and/or provision of the Goods shall constitute acceptance of these terms and conditions.

1.2 These terms and conditions shall apply notwithstanding any trade custom to the contrary and notwithstanding that any other terms and conditions may have applied whether expressly or by course of dealing in prior transactions between the parties.

1.3 Any variations alterations or extensions to the Purchase Order must be in writing and confirmed by an authorized representative of the Buyer.

1.4 Nothing in these terms and conditions shall confer any rights of exclusivity on Seller and Buyer shall be free to purchase Goods or Services similar to those supplied by Seller from any supplier at Buyer's absolute discretion.

2. Definitions

2.1 In these conditions the following expressions shall have the stated meaning except where the context otherwise requires:-

"**Buyer**" shall mean the Company on whose behalf this Purchase Order is issued.

"**Purchase Order**" shall mean the order for the Goods issued by the Buyer to the Seller to which these conditions are annexed.

"**Seller**" shall mean the person, firm or company to whom the Purchase Order is issued.

"**Goods**" shall mean the goods (if any) which are the subject of the Purchase Order.

"**Contract**" shall mean the agreement between the Buyer and Seller comprising the Purchase Order, these Conditions of Purchase and any documents specified in the Purchase Order.

"**Delivery Date**" shall mean the date for delivery of Goods or performance of Services stated in the Purchase Order or as otherwise agreed in writing "Services" shall

mean the services (if any) which are the subject of the Purchase Order. between the Seller and the Buyer.

"**Site**" shall mean the location referred to in the Purchase Order where the Goods are directed to be delivered or installed or the Services are directed to be performed.

"**Specification**" shall mean the description, performance requirements, duties and other matters relating to the Goods or the Services performed referred to in or attached to the Purchase Order, as the same may be amended by written agreement between the parties.

"**Tools**" shall mean tooling artwork photographs and/or other equipment necessary for manufacture and/or supply of the Goods.

"**Regulatory Approval**" means any licence consent or approval required by any UK regulatory authority to sell or use the Goods.

3. Delivery

3.1 The Seller shall deliver the Goods and/or perform the Services by the Delivery Date and time shall be of the essence. The Seller shall notify the Buyer in writing as soon as possible if the Seller will be unable to deliver on the Delivery Date.

3.2 Without prejudice to any other remedies available to the Buyer in respect of such failure, failure by the Seller to meet the

Delivery Date whether wholly or in part shall entitle the buyer to determine the Contract in respect of any Goods or Services outstanding and/or defective or non-compliant Goods or Services the performance of which has been defective or non-compliant .

3.3 The Seller shall deliver the Goods to or, where relevant, perform the Services at the Site or to or at such other location as the Buyer shall notify to the Seller in writing.

3.4 Subject to anything to the contrary set out in these terms and conditions, delivery of Goods shall be DAP to Incoterms 2010 and take place at any destination in the world.

4. Packing and Shipping

4.1 The Goods shall be properly packed or otherwise prepared for shipment by the Seller so as to be secure and safe until delivery to the Buyer at the Site.

4.2. If any packaging provided by the Seller is to be returned this must be clearly stated on the delivery note and invoice.

5. Property and Risk

5.1 This contract is for outright purchase of the Goods specified. Property in the Goods shall pass to the Buyer on delivery without prejudice to the Buyer's right of rejection.

5.2 Where the Buyer pays part of the said agreed purchase price before taking delivery of the Goods or any part thereof then such payments shall be regarded as part payments and not deposits of the said agreed purchase price. The property in any materials procured for or manufactured by Seller for the purposes of the Contract or otherwise appropriated to the Contract shall pass to the Buyer from the date of such payments up to the total value thereof. Part payments are without prejudice to the Buyer's rights under Clause 8.

6. Price

6.1 The Buyer will pay to the Seller in the manner laid down in the Contract the agreed purchase price which is calculated in accordance with or is recorded in the Contract.

6.2 The price stated in the Contract shall not be varied unless the Buyer and Seller agree in writing or unless due to a variation made by the Buyer under Clause 18. If the Purchase Order does not contain or refer to an ascertainable price the Seller will charge no more than the price as last invoiced to the Buyer.

7. Payment

7.1 Invoices shall be delivered by the Seller to the Buyer no earlier than the date of actual delivery of the Goods or performance of the Services unless provision for stage or interim payments is made in the Contract in which case invoices may be issued on or after the time for such stage or interim payments. Invoices shall become due on acceptance of the Goods. Unless specified otherwise in the Contract payment will be made within 60 calendar days of receipt of the invoice, unless the invoice is not issued in accordance with the provisions of these terms and conditions. Invoices shall contain sufficient details of the Goods and/or Services to which they relate to enable the Buyer to ascertain whether the same have been properly delivered or performed and shall, if applicable, account for VAT (or equivalent tax or duty) in accordance with applicable regulations.

8. Seller Default



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The Seller shall be deemed to have failed to perform an obligation if a consignment is delivered after the Delivery Date or if the delivery is incorrect, in which case no notification of default is required. The Seller shall be liable to pay delivery credits if and in so far as it fails to perform this obligation for reasons that are not attributable to the Buyer. The amount of the delivery credits per calendar day shall be 1.0% of the price of the Goods

that were delivered late or incorrectly, up to a maximum of 15% of the price agreed in the Purchase Order. The parties acknowledge that the delivery credits are a reasonable pre-estimate of the Buyer's damages however, the delivery credits shall be without prejudice to the obligation of the Seller to pay to the Buyer compensation for the damage caused as a result of late or incorrect delivery, if and so far as the damage exceeds the amount of the delivery credits.

9. Warranty

9.1 The Seller warrants that the Goods and their design and construction (and, where relevant, the Services) will be:-

- (a) of best quality and comply with all statutory requirements and regulations and Regulatory Approvals;
- (b) in all respects free from defects in materials or workmanship and free of all defects whether patent or latent;
- (c) safe in use and shall meet and comply in every respect with the Specification or sample supplied by or approved by the Buyer in writing and with all statutory requirements;
- (d) free from any substances that cannot be disposed of by means of a normal waste processing method;
- (d) fit for the purpose intended by the Buyer.
- (e) In the case of provision of Services (whether with or without Goods) the Seller warrants that they will be performed in a timely manner by properly qualified and trained staff with due skill and care and to the highest industry standards applicable and in compliance with all statutory requirements and regulations and Regulatory Approvals.
- (f) In the event of any breach of the above warranty the Seller undertakes to repair or replace (at the Buyer's option) the Goods in the event that the same should prove

defective in the period of twelve months from the Delivery Date without prejudice to any other rights of the Buyer. Such repair or replacement shall be carried out free of any charge including charges for labour, parts or carriage.

(g) In the event that the Seller cannot or does not respond within a reasonable time to rectify any such defects or failures, the Buyer may carry out the repair or replacement and shall be entitled to reimbursement by the Seller for reasonable costs necessarily incurred in connection therewith.

Such action will not relieve the Seller of his continuing obligations under the Contract. The Buyer shall have the right to reject the Goods or Services or any part thereof which do not comply with the requirements of this Contract and/or refuse to accept further installments or deliveries or performance of the Goods or Services without prejudice to its other rights under the contract.

9.2 The Buyer's rights under these conditions are in addition to the statutory conditions implied in favour of the Buyer by the Sale of Goods Act 1979.

10. Indemnity

10.1 The Seller shall be liable in damages in respect of breach of the above warranty and shall indemnify the Buyer from and against any loss of or damage to property, damage injury or expense incurred arising out of performance by the Seller of its obligations under the Contract up to a maximum amount of £5m for any one claim of loss of or damage to property or such higher amount as the Buyer shall specify.

10.2 The Seller will indemnify the Buyer from and against all claims for death or personal injury, from whomsoever and due to the negligence of the Seller or breach of the above warranties.

10.3 The Seller will indemnify the Buyer in full from any liability under the Consumer Protection Act 1987 in respect of the Goods.

10.4 The Seller will at all times effect and maintain adequate insurance with a reputable insurer in respect of all insurable liability under this Contract and will produce evidence of such insurance (including, if requested, evidence that all premiums have been paid up to date) upon request from the Buyer.

11. Free Issue Material

11.1 Where the Buyer issues to the Seller for the purpose of the Contract free issue materials, such materials shall be and remain the property of the Buyer. The Seller will

maintain all such materials in good order and condition.

11.2 Surplus free issue materials will be returned to the Buyer, and any loss of such materials arising from bad workmanship or failure of the Seller to maintain such materials in good order and condition shall be made good at the Seller's expense.

12. Buyer's Designs, Specifications and Property Rights

12.1 Any specifications, plans, designs, samples or tooling supplied by the Buyer to the Seller in connection with the Contract shall remain the property of and confidential to the Buyer. The Seller shall not use any such material at any time for any other purpose than fulfilling its obligations under the Contract.

12.2 If the Goods are made to the special order of the Buyer then all copyright and other property rights shall belong to the Buyer and the Seller shall if requested sign or do all things necessary to confirm the Buyer's rights.

12.3 The Seller's use of the Buyer's patent trade marks or other property rights must be strictly limited to fulfilling its obligations to the Buyer and for no other purpose whatsoever.

12.4 If Goods are rejected by the Buyer, which bear the Buyer's name or trade mark then the manner of disposal of any such goods will be subject to the Buyer's prior written approval.

13. Quality Assurance Progress and Inspection

13.1 The Buyer's representative shall have the right to check progress on delivery of and inspect the Goods at the Seller's works and/or the works of approved sub-contractors at all reasonable times.

13.2 Any inspection, checking approval or acceptance given on behalf of the Buyer shall not relieve the Seller or his sub-contractors from any obligations under the Contract.

13.3 The Seller shall implement and maintain at all times an effective quality control system which ensures that the Goods meet the Buyer's requirements under this Contract and will provide evidence of such system and copies of records if required.

13.4 The Supplier will comply with the Buyer's Quality Assurance requirements issued from time to time.

14. Intellectual Property Rights Indemnity

14.1 Except in the case of designs or specifications supplied by or owned by the Buyer the Seller shall



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indemnify and hold harmless the Buyer from and against any and all liability, damage, costs, claims, or expenses which may be suffered or sustained by the Buyer by reason of any claims, demands or actions brought or threatened to be brought against the Buyer and/or its customers for actual or alleged infringement of any Trade Mark, copyright patent or other similar protection by reason of the performance of the Seller's obligations under the Contract, resale or the use of the Goods or Services or any part thereof for a purpose known to the Seller. The Seller, at the Buyer's request, shall defend, at the Seller's expense, any such claim or suit of action.

15. Confidential Information

15.1 If the Buyer disclosed any confidential information (whether technical or otherwise) to the Seller the Seller shall not at any time without the Buyer's express written prior consent use the same otherwise than for the purposes of the Contract or disclose to any third party any such information save where required by law.

15.2 The Seller will prior to disclosure inform each of its employees to whom any such information is disclosed of the restrictions herein contained and shall ensure that each such employee shall observe such restrictions.

15.3 The restrictions in this clause shall continue until the said confidential information becomes public information other than by default of the Seller.

15.4 The Seller shall return all confidential information of the Buyer in physical form (and shall not retain any copies) on demand at any time and in any event on termination of the Contract.

16. Waiver

16.1 Any failure by the Buyer to enforce or require strict performance by the Seller of any terms or conditions of this Contract shall not constitute a waiver thereof by the Buyer and Buyer may at any time avail itself of the remedies open for any breach of the terms hereof.

17. Termination

17.1 This order or its forms may be cancelled or varied at any time by the Buyer giving to the Seller notice in writing. The Seller shall take all steps to minimise its losses and utilize or rework unused raw materials and components for its own business.

17.2 The Buyer shall pay a fair and reasonable amount for all work in progress at the date of such notice which is subsequently received by

the Buyer. Thereafter the Buyer shall not be liable for any loss incurred by the Seller whatsoever including but not limited to consequential loss or loss of profit.

17.3 The Buyer shall have the right at any time by giving notice in writing to the Seller to terminate the contract forthwith if:

(a) the Seller commits a material breach of any of the terms and conditions of the Contract; or

(b) any distress, execution or other process is levied upon any of the assets of the Seller; or

(c) the Seller has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Seller or notice of intention to appoint an administrator is given by the Seller or its directors or by a qualifying floating charge holder (as defined on paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Seller or for the granting of an administration order in respect of the Seller, or any proceedings are commenced relating to the insolvency or possible insolvency of the Seller; or

(d) the Seller ceases or threatens to cease to carry on its business; or

(e) the financial position of the Seller deteriorates to such an extent that in the opinion of the Buyer the capability of the Seller adequately to fulfill its obligations under the Contract has been placed in jeopardy.

18. Variation

18.1 Any variations alterations or extensions to the Purchase Order must be in writing and confirmed by an authorised representative of the Buyer.

18.2 In the event of the Buyer issuing a variation order the Seller shall be entitled to vary the price of the Contract to the extent necessary to recover any additional direct costs which will be incurred but not otherwise.

19. Assignment

19.1 The Contract in its entirety and each and every provision thereof shall inure to the benefit of the successors, assigns and subsidiary and associated companies of the Buyer.

19.2 The Contract is personal to the Seller who shall not without the Buyer's prior written consent assign any of its rights or duties hereunder.

20. Severance

20.1 If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this contract and the remainder of the provision in question shall not be affected thereby.

21. Entire Agreement

21.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

22. No Partnership or Agency

22.1 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or bind, the other party in any way.

23. Rights of Third Parties

23.1 A person who is not a party to the Contract shall not have any rights under or in connection with it.

24. Notices

24.1 Any notice required or to be given by either party to the other under this Contract shall be in writing addressed to the other party at its registered office or such other address as may at the relevant time have been notified to the party giving the notice.

25. Jurisdiction

25.1 The Contract shall be subject and interpreted in accordance with <country> law and the parties hereby submit to the exclusive jurisdiction of the <country> courts.