

GENERAL CONDITIONS OF CONTRACT

DEFINITIONS

- (A) "the Contract" means the Order together with (i) any documents referred to therein for the supply of Goods and (ii) these conditions. The Order and Conditions shall represent the entire agreement between the Supplier and MJC as to the terms upon which the Goods shall be supplied and delivered and excludes any other agreements whether written or verbal (including without limitation any terms of conditions contained in Suppliers order forms, tender, printed conditions or correspondence) unless specifically agreed by MJC in writing. Any ambiguity between the documents forming the contract shall be resolved by MJC.

(B) "MJC" means M J Church (Plant) Limited.

(C) "the Supplier" means the person named as such in the Order.

(D) "the Goods" means all of part of materials, articles, supplies and goods to be supplied and delivered by the Supplier as specified in the Order.

(E) "the Order" means the Order for materials, articles, supplies and goods shown on the reverse of these conditions, and any continuation sheets or attachments added thereto.

(F) "the Site" means the actual place or places to which the Goods are to be delivered in accordance with the Contract.

(G) "the Main Contract" means the contract between MJC and the Employer for the Goods which are required.

(H) "the Employer" means the person named as such in the Main Contract.

(I) "the Works" means the work as defined in the Main Contract.

(J) "the Defects Liability Period" means the defects liability period, maintenance period, or other equivalent period, as defined in the Main Contract.

(K) "Intervening Event" means in any jurisdiction:

 - any change in law; or
 - any change in the economic or market circumstances; or
 - any measures taken by the UK Government or any other government of any jurisdiction;

as a direct or indirect result of UK Cessation, including but not limited to any change in the application of law or in the imposition of taxes, custom tariffs or duties, or any currency fluctuations, or any other consequences of UK Cessation.

(L) "UK Cessation" means the UK ceasing to be a member state of the European Union, or the process under which or the consequences of the UK Government negotiating such cessation with the European Union.

ASSIGNMENT AND SUB-LETTING

The headings in the Contract shall not be deemed to be part thereof or be taken into consideration the interpretation or construction of the Contract.

- (A) The Supplier shall not assign or sub-let the whole of the Contract. The Supplier shall not assign or sub-let any part of the Contract without the written consent of MJC and any permitted sub-letting shall not relieve the Supplier of any liability or obligation under contract.

(B) MJC may on giving written notice to the Supplier assign the Contract to the Employer.

GENERAL

- The Supplier shall be deemed to have notice of all the provisions of the Main Contract (except the detailed prices of MJC) and the Programme (if any) for the Works which may be current from time to time. The Supplier may inspect a copy of the Main Contract and the latest Programme (if any) by appointment at MJC's office.
- The quantities stated in the Order are approximate only and indicative of the quantities of material required. MJC will not entertain any claim whatsoever for any reduction / increase in quantities which have been stated orally or in correspondence.

QUALITY

- (A) The Supplier shall warrant that: the Goods shall be in accordance with the description, quality and standard specified or referred to in the Contract and shall be of merchantable quality and fit for the purposes for which they are intended and shall conform in all respects with MJC's obligations under the Main Contract.

(B) The Supplier has exercised proper skill and care in the design of and selection of materials and components used in the manufacture of the Goods and/or materials the subject of this Contract.

(C) In any event including the absence of any specification and unless otherwise stated the Goods shall be new, the best of their respective kind and comply with the appropriate current British Standard and or Codes of Practice (if any) and shall be to the reasonable satisfaction of MJC and of the Employer and/or his agents.

(D) If required by MJC the Supplier will provide instruction and maintenance manuals, drawings, test certificates and all technical information.

DELIVERY AND PASSING OF PROPERTY AND RISKS

- (A) Time is of the essence of the Contract. The Goods shall be delivered to the Site in accordance with the delivery schedule referred to in the Order or where no such schedule is referred to in accordance with the written instructions of MJC. And unless otherwise stipulated in writing the cost of such unloading shall be borne by the Supplier. Containers and packing are to be supplied free of charge.

(B) The written receipt of MJC shall be the only evidence that delivery has been made provided that in the case of packed Goods and/or materials such receipt shall be in evidence of receipt of the package only and such receipt shall not constitute evidence that the Goods are in accordance with the Contract.

(C) The said delivery schedule shall be subject to revision by MJC as may be reasonably necessary to suit the progress of the Works.

(D) The property and risk in the Goods shall remain with the Supplier until the Goods are delivered to the Site (in accordance with sub-clause (A) above). Upon delivery the property and risk in the Goods shall pass to MJC and where delivery is by instalments upon completion of delivery of each instalment. The Supplier shall from time to time when so requested provide reasonable evidence that prior to such delivery the property in the Goods was vested in the Supplier.

(E) The Supplier shall be responsible for and indemnify MJC against damage or breakage of the Goods prior to delivery to the Site.

(F) Notwithstanding the provisions of Clause 5 hereto and without prejudice to any other right or remedy MJC shall have the right to reject any Goods and/or materials found to be damaged or otherwise defective provided that MJC notifies the Supplier as soon as reasonably practical once such damage or defect becomes known to MJC and MJC can reasonably show that the damage and/or defect had been caused before or otherwise existed prior to completion of delivery.

DEFAULT

- If any Goods do not comply with any term of the Contract including quantity, quality or description or are not delivered in accordance with the delivery schedule or MJC's written instructions, MJC may reject the Goods or part of them.
- In addition to and without prejudice to any other rights and remedies MJC may have:
 - The Supplier shall upon being required to do so by MJC make good by replacement or otherwise any defects in the Goods supplied which appear before expiry of the Defects Liability Period or within the Suppliers guarantee period whichever is the longer at the Suppliers sole cost.
 - The Supplier shall indemnify and hold MJC harmless against claims, damages, loss and expense however arising out of or in connection with defects in Goods.
 - In the event of failure to supply the Goods in accordance with Clause 5 or in the event of any defects in the Goods MJC may:
 - terminate the Contract by notice in writing to that effect in respect of all or part of the Goods not supplied prior to such cancellation and shall not be liable to make any payment whatsoever in connection with the Goods whether by way of compensation or loss of profit or otherwise.
 - charge the Supplier or deduct by way of set off any additional costs reasonably incurred by MJC including any costs in obtaining alternative Goods, articles, supplies and/or materials or incurred in connection with delays for which MJC may be liable.
 - take the supply or delivery of the Goods wholly or in part out of the Suppliers hands and re-contract them to any other person.
 - Return the Goods and/or materials or any part thereof to the Supplier the cost of which shall be borne by the Supplier. MJC shall be entitled to be repaid in full for any Goods and/or materials returned.
 - Permit the Supplier the opportunity to replace or repair at their expense the Goods and/or materials so that they comply with the terms of this Contract. The Supplier shall pay or allow to MJC all additional costs and expenses incurred by MJC by virtue of such replacement or repair.
 - MJC may at any time upon giving 7 days' notice to the Supplier terminate the supply and/or delivery of the Goods or any part thereof under this Contract, provided that if the termination is not by reason of the Supplier's default or not by reason of an Intervening Event, MJC shall pay to the Supplier's reasonable costs and expenses but in any event such costs and expenses shall not exceed the price or prices for the total Goods to be supplied and MJC shall not be liable for any costs, damages or expenses however arising whether expressed or implied by the contract or in law arising from such termination.
- Without prejudice to any other right or remedy expressed or implied by Contract or in law MJC may deduct from any monies due or which may be due to the Supplier whether under the Contract or any other Contract with MJC all cost, damages loss or expense for which under the Contract the Supplier is liable to MJC.

INDEMNITY AND INSURANCE

- (A) The Supplier shall indemnify and hold MJC harmless against any loss, damage, liability, costs or claims whether direct or indirect suffered by or brought against MJC arising from Goods supplied or any other work carried out by the Supplier under the Contract whether in respect of injuries to or death of any person including employees of the Supplier or of damages to any property or in the performance of the Contract by the Supplier or resulting from any defect in the Goods provided that such loss, damage, liability, costs or claims do not arise from any negligence on the part of MJC, its employees, servants or agents.

(B) The Supplier will at all times during the Contract maintain adequate policies of insurance in respect of damage to or loss of (whether in whole or part) of the Goods whilst the property thereof rests with Supplier and injury or death of any person (including employees of the Supplier and MJC) and loss or damage of any property arising from the performance of the Contract. The Supplier shall produce to MJC when required to do so the relevant policies of insurances and the receipt for current premiums.

(C) The Supplier will provide all reasonable facilities, assistance and advice required by MJC or their insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Contract.

(D) The authorised representative of MJC and the Employer shall at all reasonable times be granted access to the premises of the Supplier for the purposes of determining progress in the execution of this Contract, inspecting the Goods and/or materials at all stages of manufacture and packaging and where required witnessing or carrying out tests. The exercise by MJC of its rights under this clause shall not absolve the Supplier from its obligations under this Contract.

PATENT AND OTHER RIGHTS

- (A) The Supplier shall indemnify MJC against any action, claim or demand, costs and expenses arising from or incurred by any reason of infringement or alleged infringement of any intellectual property rights (including but not limited to patents, trademark or copyright) in respect of or resulting from the supply and delivery of the Goods.

(B) In the event of any claim or demand being made or action brought against MJC in respect of any of the said matters MJC shall notify the Supplier as soon as possible and the Supplier shall conduct with the assistance of MJC if necessary but at the Supplier's own expense all negotiations for the settlement of such matter and/or litigation involved or which may arise thereof. The Supplier shall pay and discharge all royalties and other sums to whomsoever payable in respect of the Goods.

PAYMENT

- Payment for the Goods shall be 30 days from the end of the month in which the invoice is received unless expressly agreed otherwise in writing between MJC and the Supplier. All prices for the Goods shall be exclusive of VAT unless otherwise stated. If the price fluctuation clause shall apply to this Contract as determined on the face hereof an increase or decrease must be notified immediately to MJC and is conditional upon acceptance by MJC in writing. A further order will be issued to facilitate any variation in price.

INTERVENING EVENT

- 12A If an Intervening Event occurs after the date of the Order, the Supplier shall continue to comply with its obligations under this Contract without any increase in the price for the Goods or an extension of time for delivery of the Goods pursuant to clause 6, and without affecting in any way or to any degree the Supplier's liability under this Contract.

HEALTH AND SAFETY AT WORK ETC.

- (A) The Supplier shall comply with all relevant legislation concerning health and safety at work including but not limited to the Health and Safety at Work Act 1974 and in particular section 6 thereof.

(B) The Supplier shall require all of its employees and persons within its control who enter upon the Site to wear approved personal protective equipment (PPE) at all times and also to comply with the Health and Safety at Work Policy laid down at MJC. A copy of the said Policy can be inspected upon request. Any person not wearing or refusing to wear approved PPE will be refused entry to or required to leave the Site until they do so.

(C) COSHH Regulations. It is a condition of this order that you are to inform and provide a Hazard Data Sheet to the MJC Site Agent / Manager of any substance of your supply, which is classified as or presumed to be of a hazardous nature, as detailed in the COSHH Regulations.

DISPUTES

- The Contract shall in all respects be construed and performed in accordance with English law and shall be subject to the jurisdiction of the English Courts. For the avoidance of doubt (notwithstanding anything contained herein and any arbitration clause contained in the Main Contract) no arbitration clause is to apply to this Order.
- The Supplier shall be deemed to have failed to comply with the terms of this Contract if they become bankrupt, make a composition or arrangement with their creditors, have a winding up order made or a resolution for voluntary winding up passed or have a provisional liquidator, receiver or manager duly appointed, or have possession taken by or on behalf of the holder of any debentures secured by a floating charge.
- The terms of this Contract and any other information gained by the Supplier about MJC shall be treated as confidential and shall not be communicated to any other person, firm or company without the consent in writing of MJC. In particular neither this contract nor the name MJC shall be used by the Supplier for advertisement or publicity purposes without the prior consent of MJC.