

HS1 Limited Terms and Conditions – Purchase Order for Goods and/or Services from Supplier

Registered Number: 03539665 and whose registered office is at 73 Collier Street, London N1 9BE

1. Definitions

For the purposes of these Conditions:

“**Agreement**” means the Order and the Supplier's acceptance of these Conditions;

“**Conditions**” means these terms and conditions;

“**Goods and Services**” means all or any of the items set out in the Order which are to be supplied to HS1 by the Supplier (including any part or parts of them);

“**Order**” means HS1's written instruction for the Supplier to supply Goods and Services, incorporating these Conditions;

“**Parties**” means the HS1 and the Supplier;

“**HS1**” means HS1 Limited;

“**Invoice Address**” means Accounts Payable, HS1 Limited, 73 Collier Street, London N1 9BE, United Kingdom;

“**Specification**” means the requirements to which the Goods and/or Services supplied shall conform as detailed in the Order; and

“**Supplier**” means the person, firm, or company who accepts the Order (or its successors in title).

2. Suppliers Conditions

In the absence of a signed agreement between HS1 and the Supplier for the purchase of particular Goods and/or Services, these Conditions shall apply to all the purchase of such Goods and/or Services by HS1 from the Supplier to the exclusion of all other terms and conditions, including any terms and conditions which the Supplier may purport to apply under any sales offer or similar document.

The Order, including these Conditions, contains the entire agreement and understanding between the Supplier and HS1 and supersedes all prior discussion and negotiations between them in relation to the subject matter of the Agreement. Terms or conditions endorsed upon, delivered with or otherwise contained or stated in the Supplier's quotation, or in the Supplier's acknowledgement or acceptance of the Order shall not be binding on HS1 if in conflict with or in addition to any of the provisions of the Order (including but not limited to delivery schedule, price, quantity and terms and conditions) unless expressly agreed to in writing to HS1. The Order may not be changed orally.

Despatch or delivery of the Goods or Services by the Supplier to HS1 shall be deemed conclusive evidence of the Supplier's acceptance of these Conditions.

3. Deliveries

HS1's schedules are based upon the agreement that the Goods and Services will be delivered to HS1 by the date specified in the Order, or, if a date is not specified, within 30 days of the date of

the Order. Time is therefore of the essence of the order. If the Supplier fails to make delivery of Goods and/or Services at the time agreed upon, HS1 reserves the right to cancel, purchase elsewhere and hold the Supplier accountable for any additional costs or damages incurred by HS1.

The Goods and Services shall be delivered, carriage paid, to HS1's place of business or other such place of delivery as is agreed by HS1 in writing prior to delivery of the Goods and Services. The Supplier shall offload the Goods and Services at its own risk, as directed by HS1.

The Goods and/or Services shall remain at the risk of the Supplier until delivery to HS1 is complete (including offloading and stacking of goods, downloading or other electronic transfer of data, repowers and/or other information) when ownership of the Goods and/or Services shall pass to HS1.

The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the Order Number, date of the Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

The Supplier shall deliver the Goods and Services as instructed in the Order and obtain a receipt for them. The Supplier shall comply with special requirements as to the manner or quantities for delivery.

Unless otherwise stipulated by HS1, deliveries shall only be accepted by HS1 between 0930 and 1730 on weekdays other than public holidays in England. If the Goods and Services are not delivered on the due date then, without prejudice to any other rights which it may have, HS1 reserves the right to:

- cancel the Agreement in whole or in part;
- refuse to accept any subsequent delivery of the Goods and Services which the Supplier attempts to make;
- recover from the Supplier any expenditure reasonably incurred by HS1 in obtaining goods and services equivalent to the Goods and Services in substitution from another supplier; and
- claim damages for any additional costs, losses or expenses incurred by HS1 (whether direct or indirect), which are in any way attributable to the Supplier's failure to deliver the Goods and Services on the due date.

Where HS1 agrees in writing to accept delivery by instalments, the Agreement shall be deemed to

apply in respect of each instalment. Nevertheless failure by the Supplier to deliver any one instalment shall entitle HS1 at its option to treat the whole Agreement as repudiated.

HS1 shall not be deemed to have accepted the Goods and Services until it has had 45 days to inspect them following delivery. HS1 shall also have the right to reject the Goods and Services as though they had not been accepted for 45 days after any latent defect in the Goods and Services has become apparent.

4. Inspection

All Goods and/or Services shall be subject to HS1's (and any of HS1's clients if necessary) inspection and test at all times before, during or after manufacture. The Supplier shall furnish without additional charge, all reasonable facilities and assistance for the safe and convenient inspections and tests required by the inspectors. Final inspection and acceptance shall be on HS1's premises unless otherwise specified.

HS1 shall have the right to reject and return at the Supplier's expense and at HS1's discretion, to require the correction or replacement of Goods and Services which are defective and/or do not conform to the requirements of Order. All rejections or returns shall be held at the Supplier's risk and expense, including all transportation and handling costs, until returned to the Supplier or corrected by the Supplier.

5. Quantities

Delivery of the Goods and Services must equal the exact amounts ordered, unless otherwise agreed by HS1. If the Goods and/or Services are delivered to HS1 in excess of the quantities ordered HS1 shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.

6. Prices

The price of the Goods and Services shall be stated in the Order and unless otherwise agreed in writing by HS1 shall be exclusive of value added tax (unless otherwise stated in the Order) but inclusive of all other charges. No variation in the price or extra charges shall be accepted by HS1.

7. Payment

HS1 shall pay the price of the Goods and Services that are delivered and accepted pursuant to the Conditions with 28 days of the date of valid invoice as received from the Supplier but the time for payment shall not be of the essence of the Agreement.

Without prejudice to any other right or remedy, HS1 reserves the right to set off any amount owing at any time from the Supplier to HS1 against any amount payable by HS1 to the Supplier under the Agreement.

8. Warranty

The Supplier warrants that all the Goods and Services delivered hereunder shall be free from defect of materials or workmanship and shall conform strictly to the specifications, drawings or sample specified or furnished be fit for the purpose for which they are procured by the HS1 and be capable of the required performance. This warranty shall survive any inspection, delivery or acceptance by HS1 of the Goods and Services or any payment by HS1 for the Goods and Services.

9. Quality and Defects

The Goods and/or Services shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Order and specification and/or pattern suppliers or advised by HS1 to the Supplier.

HS1 rights under these Conditions are in addition to the statutory conditions implied in favour of HS1 by statute.

10. HS1's Property

All materials, including tools furnished or specifically paid for by HS1 shall be the property of HS1, shall be subject to removal at any time without additional cost upon demand by HS1, shall be used only for fulfilling orders from HS1, shall be kept separate from other materials or tools and shall be clearly identified as the property of HS1. The Supplier assumes all liability for loss or damage, with the exception of normal wear and tear and agrees to supply detailed statements of inventory upon request by HS1.

Materials, equipment, tools, dyes, mould, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied by HS1 to the Supplier or not so supplied but used by the Supplier specifically in the manufacture of Goods and Services shall at all times be and remain the exclusive property of HS1 but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned and shall not be disposed of other than in accordance with HS1's written instructions, nor shall such items be used otherwise than as authorised by HS1 in writing.

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11. Confidentiality and Intellectual Property Rights

The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are confidential in nature and have been disclosed to the Supplier by HS1 or its agents and any other confidential information concerning HS1's business or its products which the Supplier may obtain in the course of providing the Goods and Services and the Supplier shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to HS1 and the Supplier shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

Intellectual property and other rights in the Goods and Services shall vest in the party from whom the Goods and Services originate unless the Goods and Services are produced for HS1 as bespoke. If the latter applies such rights shall vest in HS1 upon their creation and the Supplier shall do all such things and execute all such documents as HS1 may require in order to perfect such vesting. The Supplier shall ensure that it includes corresponding provisions in its contracts with its own sub-contractors, suppliers, agents and employees.

In the event of any breach of any such intellectual property rights the Supplier shall indemnify the HS1, unless HS1 is responsible for the breach in question.

12. Corruption and Whistle blowing

The Supplier shall not do anything, or omit to do anything, which may be considered to be an inducement to any employee of the HS1. Any such inducement shall be deemed to be a breach of the Agreement.

13. Assignment and Novation

The Supplier shall not be entitled to novate and/or assign the Agreement or any part of it without the prior consent of HS1. HS1 may novate and/or assign the Agreement or any part of it to any other party without the prior written consent of the Supplier.

14. Changes to Orders

An Order may only be amended by written agreement between HS1 and the Supplier

15. Supplementary Information

Any specification, drawings, notes, instructions, engineering notices, or technical data referred to

in the Order shall be deemed to be incorporated in the Agreement by reference as if fully set forth, to the extent that they do not conflict with these Conditions or the Order.

16. Publicity, Promotion or Advertising

The Supplier shall not, without HS1 prior written consent, issue any news release, advertising, publicity or promotional material regarding the Order (including denial or confirmation).

17. Health and Safety

The Supplier is responsible for ensuring in accordance with best practice the safety of itself, its employees, sub-contractors, agents and equipment and the Goods and Services prior to delivery to HS1 and for complying with all applicable health and safety legislation. The Supplier shall and shall procure that its employees, sub-contractors and agents shall, in addition, comply with any site specific standards, rules and procedures notified by HS1 when present on premises owned or operated by HS1 and further than any other person acting on the Supplier's behalf shall enter such site at their own risk.

18. Governing Law

The Agreement and any non contractual obligation arising out of or in connection with the Agreement shall be governed by, construed and interpreted according to English law and shall be subject to the exclusive jurisdiction of the English courts.

19. Force Majeure

HS1 reserves the right to defer the date of delivery or payment or to cancel the Agreement or reduce the volume of Goods and/or Services ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of HS1 including, without limitation, Acts of God, governmental actions, was or national emergency, acts of terrorism protest, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either part's workforce), or restraints or delays affecting or inability or delay in obtaining supplies of adequate or suitable materials.

20. Termination

HS1 shall have the right at any time and for any reason to terminate the Agreement in whole or in part by giving the Supplier written notice whereupon all work on the Agreement shall be discontinued and the Purchaser shall pay the Supplier fair and reasonable compensation for any work-in-progress at the time of termination but such compensation shall not include loss of

anticipated profits or any consequential loss or any other direct or indirect losses.

HS1 shall have the right at any time by giving notice in writing to the Supplier to terminate the Agreement forthwith if:

- the Supplier commits a material breach of any of the terms and conditions of the Agreement; or
- the Supplier (being an individual) shall commit an act of bankruptcy or a receiving order made against him or it or the Supplier (being a company) shall enter into an arrangement or composition with its creditors or go into liquidation, whether voluntary or otherwise except for the purpose of amalgamation or reconstruction.

The termination of the Agreement, however arising, shall be without prejudice to the rights and duties of HS1 and the Supplier accrued prior to termination. Those conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

21. Indemnity

The Supplier shall fully indemnify HS1 and keep HS1 fully indemnified for any claims, demands, cause of action, damage, loss, consequential loss, costs, expenses (including legal expenses) made against or suffered by HS1 arising out of loss or damage to any HS1 property, negligence or a breach by the Supplier of any of the Conditions set out here.

Any claim for breach of confidentiality or infringement of intellectual property rights shall be unlimited unless otherwise agreed in writing by the Parties.

22. Remedies

Without prejudice to any other right which HS1 may have, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Agreement HS1 shall be entitled to avail itself of any one or more of the following remedies at its absolute discretion, whether or not any part of the Goods and Services has been accepted by HS1:

- to rescind the Order;
- to reject the Goods and/or Services (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods and Services so returned shall be paid forthwith by the Supplier;
- at HS1's option to give the Supplier the opportunity at the Supplier's expense either

to remedy any defect Goods and Services or to supply replacement Goods and Services and carry out any necessary work to ensure that the terms of the Agreement are fulfilled;

- to refuse to accept any further deliveries of Goods and Services but without liability to the Supplier;
- to carry out at the Supplier's expense any work necessary to make the Goods and Services comply with the Agreement; and
- to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Agreement.

23. General

Each right or remedy of a party under the Agreement is without prejudice to any other right or remedy of that party whether under the Agreement or not.

If any provision of the Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Agreement shall continue in full force and effect.

Failure or delay by a party in enforcing or partially enforcing and provision of the Agreement shall not be construed as a waiver of any of its rights under the Agreement.

Any waiver by a party of any breach of, any default under, any provision of the Agreement by a party shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.

The parties to the Agreement do not intend that any term of the Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

Where a framework agreement between HS1 and the Supplier exists specifically for the supply of the Goods and Services covered by this Order then the provisions within the framework agreement shall take precedence.

This contract does not either create a partnership between HS1 and the Supplier or make one of the Parties the agent of the other for any purpose.