

1. **In these Conditions of Purchase Order the following definitions shall apply:**

- 1.1 “Buyer” means MPB Structures Limited.
- 1.2 “Conditions” means these terms and conditions and (unless the context otherwise requires) any special terms and conditions agreed in writing between the Buyer and the Seller.
- 1.3 “Contract” means the Buyer’s enquiry, its Purchase Order, any supplement to it and the Seller’s acknowledgement (if any) but excluding any terms or conditions contained in the Seller’s acknowledgement.
- 1.4 “Delivery Address” the address at which the Seller shall deliver the Goods [(or provide Services)] as specified in the Purchase Order or such other address agreed by the Buyer in writing.
- 1.5 “Goods” means the goods to be supplied by the Seller under the Contract.
- 1.6 “Losses” has the meaning set out in clause 4.3.8.
- 1.7 “Purchase Order” shall mean the document issued by the Buyer to the Seller defining the materials, Goods and/or services to be provided together with any requirements, documents or Specifications incorporating these Conditions.
- 1.8 “Seller” means the person, firm or company supplying the Goods [and/or Services].
- 1.9 “Specification” includes the description of the Goods set out in the Contract, any drawings forming part of the Contract and any samples or patterns referred to in the Contract.
- 1.10 A reference to one gender includes a reference to the other genders.
- 1.11 Condition headings do not affect the interpretation of these Conditions.
- 1.12 [The “postal rule of acceptance” shall not apply.]

2. **Basis of Contract**

- 2.1 These Conditions shall form the basis of the Contract. Unless accepted by the Buyer in writing, no terms and conditions which the Supplier seeks to impose or incorporate (whether contained in the Seller’s quotation or acknowledgement or otherwise) or which are implied by trade, custom, practice or course of dealing, shall form part of the Contract and the Seller irrevocably waives any right which it might have to rely on such terms. If the Buyer accepts any such terms but there is a conflict, these Conditions shall prevail.
- 2.2 No person is authorised by the Buyer to amend this Purchase Order or the Contract in any respect (except authorised site personnel concerning delivery times) other than by issue of written instructions on a further Purchase Order.
- 2.3 Goods shall only be supplied by the Seller on receipt of an authorised signed Purchase Order and Purchase Order reference number issued by the Buyer.
- 2.4 No claim for payment shall be valid unless supported by an official Purchase Order and/or Purchase Order reference number and related delivery note signed by the authorised signatory of the Buyer (as referred to on the Purchase Order).
- 2.5 Any performance or partial performance by the Seller of its obligations under the Contract shall constitute acceptance of the Purchase Order.

3. **Quality and Quantity**

- 3.1 The Seller shall ensure that the Goods shall:
- 3.1.1 correspond with their description, quality, the particulars stated or referred to in the Purchase Order and any applicable Specification;
- 3.1.2 conform to any sample, pattern, drawing or design approved in writing or supplied by the Buyer;
- 3.1.3 be of sound materials and workmanship;
- 3.1.4 meet any standard, inspection or performance stated or referred to on the Purchase Order or otherwise communicated by the Buyer to the Seller;
- 3.1.5 be fit for any purpose expressly or impliedly made known to the Seller, or otherwise for their ordinary purpose;

- 3.1.6 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods, including but not limited to, the requirements of the Health and Safety at Work Act 1974;
- 3.1.7 where the goods or materials are required for inclusion in works in which the Buyer is the contractor, the Goods shall be to the satisfaction of the Buyer and any architect/engineer or supervising officer named in any construction contract to which the Buyer is a party;
- 3.1.8 where applicable, be of equal or greater quality or standard than any relevant statutory provision or recommendation, British Standard or B.S. Code of Practice, E.C. Regulation or European Directive; and
- 3.1.9 [where they are manufactured products, be free from defects in design, material and workmanship and remain so for [12 months] after delivery.]
- 3.2 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, as amended.
- 3.3 If the Goods are delivered to the Buyer in excess of the quantities ordered, the Buyer shall not be bound to pay for any excess which shall be and shall remain at the Seller’s risk and shall be collected or returned at the Seller’s expense as soon as reasonably practicable. Any additional disposal/moving costs incurred by the Buyer due to the Seller not collecting the Goods shall be levied against the Seller and the Buyer shall be entitled to set-off such costs against any sums payable by the Buyer to the Seller.

4. **Time of Delivery and Vesting of Goods**

- 4.1 Time for delivery of Goods shall be of the essence of the Contract. Unless agreed by the Buyer in writing, Goods shall be delivered carriage paid to the Delivery Address on the date(s) or within the period(s) stated in the Purchase Order (**Delivery Date**), in either case during the Buyer’s usual business hours or as instructed by the Buyer. Any revised Delivery Address, time(s) and Delivery Date(s) shall be confirmed by the Buyer in writing.
- 4.2 The Seller must notify the Buyer immediately of any holiday closures and/or restrictions on the manufacture and delivery process that could impact upon the Delivery Date(s) of the Goods.
- 4.3 If Goods are not delivered by the Delivery Date or do not comply with the undertakings at clause 3.1 (in whole or in part), the Buyer may, without having any liability to the Seller whether or not it has accepted the Goods:
- 4.3.1 cancel the Contract or an individual Purchase Order;
- 4.3.2 be entitled to purchase replacement goods from an alternative source and recover from the Seller any costs incurred by the Buyer in obtaining substitute goods from a third party;
- 4.3.3 reject the Goods (in whole or in part) and (at the Buyer’s option) return them or make them available for collection by the Seller at the Seller’s own risk and expense or sell them for the price attainable by the Buyer and credit shall be given by the Buyer for the amount the Buyer received for the rejected Goods;
- 4.3.4 to carry out at the Seller’s expense any work necessary to make the Goods comply with the Contract;
- 4.3.5 require the Seller to repair or replace the rejected Goods within 3 days of rejection, time shall be of the essence [but in no circumstances shall the Seller delay the [Practical Completion] date stated in the Buyers Main Contract].
- 4.3.6 provide a full refund of the price of the rejected Goods;
- 4.3.7 refuse to accept any subsequent delivery of the Goods which the Seller attempts to make; and
- 4.3.8 claim damages for any other costs, losses or expenses (**Losses**) incurred by the Buyer or its subcontractors which are in any way attributable to the Seller’s failure or delay in delivering the Goods.

- 4.4 If the Buyer specifies a required performance or must satisfy a performance specification for the Goods, the Seller shall be deemed to have warranted that the Goods will attain the required performance and/or satisfy the performance specification notwithstanding any other provisions of the Specification. The Buyer is at all times relying on the skill and knowledge of the Seller. Should the Goods fail to maintain the required performance/performance specification such failure shall be considered a defect within the meaning of this clause.
- 4.5 The Buyer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
- 4.6 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Address as accepted by an authorised signatory of the Buyer.
- 4.7 Risk and title in the Goods shall pass on delivery. The Seller shall insure the Goods in transit against all risks for an amount equal to 110% of their value until delivery to the Delivery Address.
- 4.8 The Seller shall procure that the Buyer's interest is noted on such policy of insurance and hold any proceeds of such insurance on trust for the Buyer if any Goods are damaged or destroyed in transit.
- 4.9 Where the Buyer collects the Goods, title to the Goods shall pass to the Buyer on loading of the Goods by the Seller on the Buyer's vehicle.
- 4.10 A delivery note quoting the full number of the Purchase Order must accompany each delivery or consignment of the Goods. The delivery note must be signed by the Buyer's authorised signatory and must show, among other things, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered. The Seller should note that delivery of the Goods shall not constitute acceptance of the Goods by the Buyer.
- 4.11 The Seller shall ensure the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- 4.12 The Buyer shall be entitled to reject the Goods (or any part thereof) which are not in accordance with the Contract and shall not be deemed to have accepted the Goods (or any part) until after the Buyer has had a reasonable time to inspect them following Delivery or within a reasonable time after any latent defect in the Goods has become apparent, whichever is the later.
- 4.13 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods.
- 4.14 The Goods shall not be delivered by instalments unless agreed by the Buyer. If the Goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable. Failure by the Seller to deliver any instalment on time or at all shall entitle the Buyer to the remedies set out in clause 4.3.
- 4.15 In the event that the Buyer postpones a delivery, the Seller agrees to store the postponed Goods at its own risk and at no cost to the Buyer for a period of up to 2 months from postponement.
- 4.16 Where payment (either in whole or in part) is made by the Buyer for the Goods prior to delivery or where the Buyer has supplied materials to be incorporated in the Goods, a "Vesting" certificate shall be provided by the Seller to the Buyer. The Vesting certificate shall include a list of all items and the value of each item.
- 4.17 The vested Goods shall be set apart from the Seller's other Goods, properly stored, protected and insured against loss or damage howsoever arising at the Seller risk and expense. They shall be free of retention of title claims in respect of any third parties and be clearly and visibly marked to show:
- 4.17.1 they are for the use stated in the Purchase Order;
- 4.17.2 their destination is the Delivery Address;
- 4.17.3 they are the property of the Buyer; and
- 4.17.4 they contain the Buyer's order number.
- 4.18 In the event of bankruptcy, or a Receiver or manager being appointed over the Seller, unrestricted access shall be given to the Buyer to collect the Goods from their place of storage. In the event of any deficiency in the inventory, the shortage will be made up from other stocks of products or the Buyer shall be entitled to deduct the cost of replacement from any monies outstanding to the Seller.
- 4.19 Unless otherwise instructed, on arrival delivery drivers must report to the main office to receive clear instructions on the location for the safe off-loading/loading of the Goods under appropriate supervision. Where traffic management details are given, drivers entering the Delivery Address areas must remain accompanied at all times. The minimum Personal Protective Equipment (PPE) must be worn at all times and includes safety helmets, high visibility vest, hand and eye protection and safety footwear.
- 4.20 The Seller shall deliver with each consignment of Goods such written information as may be reasonably necessary for the proper handling, use, installation, storage and maintenance of the Goods without risk or damage or injury to persons or property. Where applicable, a suitable and sufficient risk assessment must be prepared and a written method statement submitted for approval prior to offloading.
- 4.21 All deliveries to Delivery Address must comply with the requirements of the Department of Transport (Dft) UK. The Seller shall ensure that all drivers/operators delivering or picking up Goods to/from the Delivery Address carry all statutory documentation certifying their authority to undertake the duties necessary to fulfil the requirements of the Contract and that all notices and regulations are observed when making such deliveries.
- 4.22 Where loads are loaded or off-loaded, risk assessments and loading/unloading plans must have been undertaken prior to delivery and copies provided to the Buyer. Hiab driver/operators will be required to carry the "testing & thorough examination certificate" for the Hiab and any associated lifting accessories. Before the Seller is allowed onto the Delivery Address operate plant and associated equipment for loading and unloading Goods, the Seller's delivery drivers must be in possession of proof of competence in the form of CPCS, (Construction Plant Competence Scheme), ALLMI (Association of Lorry Loader Manufacturers and Importers) or other equivalent certification in a form acceptable to the Buyer. If in doubt, the Seller should check with the Buyer prior to delivering the Goods.
- 4.23 The Seller's delivery drivers must be made aware that they have full responsibility for the safety of the load until fully off-loaded or loaded (if the vehicle is collecting Goods) and the vehicle has left the confines of the Delivery Address. The Seller and its delivery drivers should be aware that the Buyer operates a delivery loading and unloading check procedure, any deliveries not complying with the questions and data on the Delivery & Off-Loading Check Form attached to the Purchase Order together with Guidance Form Loading and Unloading of Vehicles (available on request.) may be turned away from Delivery Address.
- 5. Inspection and Testing**
- 5.1 All Goods shall be new, unless the Buyer has otherwise agreed in writing. The Buyer or his nominee shall have access to any premises of the Seller or its subcontractors or suppliers at any reasonable time before delivery, to inspect and test the Goods and shall also have the right to inspect and test them at the Delivery Address. Such tests shall include any inspections as the Buyer may think fit and shall include but not be limited to quality assurance testing controls and inspections. Notwithstanding any inspection or test made by the Buyer, the Seller shall inspect and test the Goods at its expense before delivery. The Seller shall give at least 7 days' notice to the Buyer of his intention to carry out such inspection or tests and the Buyer or its nominee shall be entitled to attend.
- 5.2 If following such inspection or testing the Buyer considers that the Goods do not conform or are unlikely to comply with the Seller's undertakings at clause 3.1, the Buyer shall inform the Seller and the Seller shall immediately take such remedial action as is necessary to ensure compliance.
- 5.3 Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under the Contract, and the Buyer shall have the right to conduct further inspections and tests after the Seller has carried out its remedial actions.

## 6. Seller's Default

6.1 The Seller shall be liable for and shall indemnify the Buyer, its agents and contractors for all losses, damages, expenses and costs (calculated on a full indemnity basis including loss of profits and all reasonable legal and other professional costs and expenses) incurred or suffered by the Buyer as a result of the Seller being in breach of the Contract.

6.2 The Seller acknowledges that breaches of the Contract may lead to the imposition of liquidated and other damages against the Buyer by its customers under its contracts and the Buyer may suffer Losses arising out of the prolongation or disruption of contract with its customers which shall include but not be limited to its own losses and those of its subcontractors and agents engaged by the Buyer, which shall be payable by the Seller to the Buyer on demand.

## 7. Price and Payment

7.1 The price for the Goods shall be as set out in the Purchase Order and unless otherwise stated, shall be inclusive of all charges for packaging, packing, shipping or other import charges, carriage, insurance and/or delivery of the Goods and any duties, imposts or levies other than the value added tax.

7.2 No increase in the price or extra charges levied may be made (whether on account of increased material, labour or transport cost, fluctuation in rates of exchange or otherwise) without the Buyer's prior written consent.

7.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase and/or volume or purchase customarily granted by the Seller.

7.4 The Seller shall be entitled to issue an invoice to the Buyer on or at any time after Delivery and acceptance of the Goods by the Buyer.

7.5 The Buyer will be under no legal obligation to pay an invoice from the Seller that:

7.5.1 does not quote a valid Purchase Order number (for the avoidance of doubt, a member of the Buyer's staff being quoted is not acceptable);

7.5.2 where an invoice quotes more than one Purchase Order number, a separate invoice for each order number is to be submitted.

7.6 Unless otherwise stated in the Purchase Order and subject to condition 7.3, the Buyer shall pay all correctly rendered undisputed invoices 60 days from month end of received date of the invoice.

7.7 The Buyer shall on receipt of a valid VAT invoice from the Seller, pay such additional amounts in respect of VAT as are chargeable on a supply of the Goods.

7.8 The Seller is not entitled to suspend any deliveries of Goods as a result of any sums being outstanding.

7.9 Weigh tickets, the cost of obtaining which shall be borne by the Seller, shall be provided upon delivery of the Goods (or any part thereof) for which the price of the Goods is calculated by reference to weight. Where the price is calculated by reference to volume, delivery shall be made in vehicles properly calibrated in accordance with the Weights and Measures Act 1985, as amended.

7.10 It shall be a condition precedent to payment that the Seller's invoice shall include details of the Delivery Address to which the Goods are delivered, the Buyers project name and number and the Purchaser Order number.

7.11 The pricing structure on the Seller's invoice must replicate the pricing structure on the Purchase Order (including timber type, length and quantity).

7.12 In the event the Seller fails to render an invoice in accordance with the requirements of this condition, the Buyer shall not be obliged to make payment.

## 8. Set off

8.1 The Buyer, without prejudice to any other right or remedy it may have, shall be entitled to set off against any amount due to the Seller, any sum or sums which at the date of payment are due and owing to the Buyer under any contract whatsoever between either the Buyer and the Seller or between the Buyer and any company which is either a subsidiary or holding company of the Seller within the meaning of the Companies Act 2006 or which is an associated company of the Seller in which the Seller owns or holds more than 50% of the share capital.

8.2 The Seller is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

## 9. Assignment

9.1 The Seller shall not assign, transfer, subcontract or otherwise deal with its rights or obligations under the Contract unless the Buyer has given its prior consent in writing (such consent not to be unreasonably withheld) The Buyer's consent shall not relieve the Seller of any of its obligations under the Contract and the Seller shall remain fully responsible for and shall indemnify the Buyer for the actions of the Seller's sub-contractors and assignees.

9.2 Within 10 working days of a request to do so, the Seller shall obtain such warranties and guarantees from its suppliers or subcontractors in such form as the Buyer may stipulate in favour of the Buyer or any third party who will have an interest in the Goods or the goods in which the Goods are incorporated.

## 10. Intellectual Property Rights

10.1 The Seller shall be liable for and shall indemnify the Buyer and its successors in title and assigns against all loss, damages and expenses resulting from any and every infringement of third party's intellectual property rights resulting from the use of/supply of Goods.

10.2 The Seller grants to the Buyer a royalty free irrevocable non-exclusive, fully paid perpetual licence to copy and use any design in relation to the Goods for any purpose for which the Goods are to be utilised.

10.3 The copyright in all drawings, plans specifications and any other documentation provided by or on behalf of the Buyer to the Seller shall remain vested in the Buyer or its licensors and must not be shown or copied to any third party without the Buyer's prior written consent and in any event upon the condition of a similar condition being imposed upon any such third party. Such documents shall be returned to the Buyer immediately upon request.

## 11. Variations

11.1 The Contract is limited to the provision of the Goods noted in the Purchase Order and the Buyer accepts no liability for any Goods supplied over and above the stated quantity.

11.2 In the event that the Buyer requests a variation to the Contract, the Seller shall provide its proposals for the variation including the price within 14 days of the Buyer's request and the Buyer and Seller shall agree the cost implications of the variation within 10 days of receipt of the variation information from the Seller. If agreement cannot be reached, the Buyer may still instruct the Seller to undertake the variation and shall pay the Seller a fair and reasonable price for the same.

11.3 No variations of these Conditions shall be valid unless agreed by the Buyer in writing.

## 12. Design and Insurance

12.1 The Seller confirms that if the Contract includes a design element, the price stated in the Purchase Order is fully inclusive of all design costs including provision of such drawings, specifications and other design documents as the Buyer may from time to time request.

12.2 The Seller confirms that it shall take out and maintain professional indemnity insurance, product liability insurance and public liability insurance to a minimum amount of £2,000,000 per contract or other such greater amount detailed in any contract documentation provided with the Purchase Order, for the duration of the Contract and for a period of 12 years from the date of Delivery.

12.3 The Seller shall promptly supply copies of such cover and receipts for the current year's premium in respect of such insurances on request.

12.4 No approval, comment, review or inspection of the Seller's designs by the Buyer shall limit or discharge the liability of the Seller to the Buyer under this Contract.

### 13. Indemnity

13.1 The Seller shall indemnify and hold the Buyer harmless against any loss, damage, liability, cost, claims (whether direct, indirect or consequential losses including loss of profit, and all interest, penalties and legal and professional costs (calculated on a full indemnity basis)) suffered by or brought against the Buyer arising from:

13.1.1 any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods;

13.1.2 any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Seller, its employees, agents or subcontractors;

13.1.3 any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Seller, its employees, agents or subcontractors; and

13.1.4 any breach or non-compliance with or non-performance of any such obligations.

13.2 This clause 13 shall survive termination of the Contract.

### 14. Termination

14.1 The Buyer shall be entitled to cancel the Contract or any Purchase Order by giving notice to the Seller at any time up to 14 days before the due date for performance and/or delivery, without any liability to the Seller.

14.2 The Buyer may terminate the Contract immediately by written notice to the Seller where:

14.2.1 the Seller is in breach of the Contract and where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice for requiring the breach to be remedied,

14.2.2 the Seller ceases or threatens to cease to carry on its business;

14.2.3 the Seller proposes to compound with its creditors, applies for an interim order under Section 252 of the Insolvency Act 1986, has a bankruptcy petition presented against it, enters into voluntary or compulsory liquidation, has a receiver, an administrator or administrative receiver appointed over all or any of its assets or takes or suffers any similar or analogous action in any jurisdiction; and

14.2.4 the Seller's financial position deteriorates to such an extent that in the Buyer's opinion the Seller's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.3 Termination of the Contract, however arising, shall be without prejudice to the rights and to remedies of the Buyer accrued as at termination. The conditions which expressly or implied have effect after termination shall continue to be enforceable notwithstanding termination.

### 15. Confidentiality

15.1 The Seller shall not, without the prior written consent of the Buyer, take or knowingly permit to be taken by, employees, agents or third parties any photographs or video footage of the Delivery Address or any other site at which the Goods may be stored or used for use in any publicity or advertising or publish, whether alone or in conjunction with any other person, any articles, photographs, video footage or other illustrations nor shall it impart

to any publication, journal or newspaper or any radio or television programme or internet site or any other media of whatever nature any information regarding the Buyer's business, contracts, projects or employees.

### 16. Provision of Information and Compliance with Statute

16.1 To ensure compliance with the current Control of Substances Hazardous to Health Regulations (COSHH) any material of a hazardous nature supplied to the Buyer must be accompanied with a material hazard data sheet. Hazard data sheets to include details of safe handling, storage, application and transportation and also include emergency procedures for accidental release. All materials supplied to be clearly labelled and where applicable in accordance with the current Chemicals (Hazard Information Packaging for Supply) Regulations.

16.2 The Seller must be REACH (Registration, Evaluation, Authorization and restriction of Chemicals) registered to be able to supply any recycled Goods to the Buyer. Failure by the Seller to provide evidence of REACH registration to the Buyer may result in Goods being rejected with no consequence or liability on the Buyer.

### 17. Third Party Rights

17.1 The following third parties shall have the right to enforce the Buyer's rights under the Contract:

17.1.1 any person employing the Buyer as their contractor;

17.1.2 the first purchaser or first tenant of any property in which the Goods are installed;

17.1.3 any person providing finance in relation to a construction project in which the Goods are installed.

17.2 Save as aforesaid, no other third party shall have the right to enforce the terms of this Contract.

### 18. Sustainable Procurement

18.1 Where the Purchase Order is for the supply and production of aggregates from inert waste and/or the Seller is delivering Goods produced from inert waste, the Seller shall comply with the requirements of the Buyers WRAP (Waste & Resources Action Programme) Quality Protocol. Failure by the Seller to comply with this Protocol may result in Goods being rejected with no consequence or liability on the Buyer. It is the Seller's responsibility to ensure receipt of this Protocol and its implementation. A copy of this protocol is available on request

18.2 The Buyer recognises that its operations directly impact on the natural and human environment and actively seek the co-operation of Sellers in minimising adverse effects.

18.3 Polystyrene packaging shall not be used for Goods under this Purchase Order. In circumstances where this is not practicable, and with the prior agreement of the Buyer, such packaging shall be allowed but at the Seller's expense, it shall take back the polystyrene immediately after Delivery or arrange for its prompt removal from the Delivery Address.

18.4 The Seller shall deliver the Goods to the Delivery Address through the most economical and environmentally-friendly means practical (using low emission vehicles / bulk deliveries (where agreed)/reduced distances).

18.5 As a signatory to the Montreal Protocol on Substances that deplete the Ozone Layer, Her Majesty's Government is committed to the reduction of the production and consumption of those substances controlled under the Protocol. The Supplier must therefore state whether its response will involve the use of any or all of the substances named below (in which case it must also provide full details of such use, including where this relates to packaging) or submit a "NIL RETURN". This does not apply to ITTs for Food, Services or Studies (where a report is the only output). Named substances: CFC13 (CFC-11),CF2Cl2 (CFC-12),C2F3Cl3 (CFC-113),C2F4Cl2(CFC-114) ,C2F5Cl (CFC-115).

18.6 The Seller shall not unlawfully discriminate, and shall procure that its employees and agents do not unlawfully discriminate, within the meaning and scope of the Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995 and any amendments to or re-enactments of those statutes.

18.7 The Seller acknowledges that the Buyer is under a duty to have due regard to the need to:

18.7.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion; eliminate unlawful discrimination; and

18.7.2 promote good relations between persons of different racial groups, religious beliefs and sexual orientation and the Seller shall assist and co-operate with the Buyer where possible to enable the Buyer to satisfy its duty.

18.8 The Seller must supply social, environmental and waste data relating to their operations on behalf of the Buyer when a request is made (e.g. safety statistics, environmental incidents, management systems).

## 19. Bribery Act 2010

19.1 The Seller warrants that:

19.1.1 it is fully aware of the provisions of the Bribery Act 2010 and that it has not and will not commit any act or omission which would place the Seller or the Buyer in breach of the Bribery Act 2010, whether in connection with the Contract or otherwise;

19.1.2 there is no outstanding investigation of it under any bribery legislation and in the last six years it has not been convicted of any offence under any bribery legislation or reached any settlement in relation to any alleged breach of any bribery legislation and has not self-reported any breach or suspected breach of any bribery legislation;

19.1.3 it will comply with the most recent guidance issued by the Secretary of State pursuant to the Bribery Act 2010;

19.1.4 it will procure that each of its suppliers, agents or others performing services on its behalf complies with this clause; and

19.1.5 it will report to the Buyer any suspicion of any breach or alleged breach of any bribery legislation, including any of its sub-contractors or others performing services on its behalf, and co-operate with the Buyer and/or any regulator and/or prosecutor in any investigation relating to the same.

19.2 The Seller shall be liable for, and indemnifies the Buyer against, any expense, liability, loss, claim or proceedings whatsoever in respect of any breach by the Seller of the provisions of this clause.

19.3 In the event of any breach by the Seller of the provisions of this clause, the Buyer shall be entitled by notice to the Seller to the Contract.

19.4 This clause 19 shall survive termination of the Contract.

## 20. CE Marking (Construction Products Regulation 2011)

20.1 As from 1 July 2013, it is the manufacturers' responsibility to ensure that construction products placed on the market in the UK and conforming to Annex ZA of a harmonised standard (hEN) or an ETA are accompanied by a DoP and have CE marking. Additional markings and marks may be permitted provided that:

20.1.1 they fulfil a different function from that of the CE marking;

20.1.2 are not liable to cause confusion with it; and

20.1.3 do not reduce its legibility and visibility.

20.2 The Seller is obliged to comply with such regulations and standard and shall ensure all Goods supplied are marked appropriately and in accordance with these standards and regulations.

## 21. General

21.1 If any provision of the Contract 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 to be severable and the remaining provisions of the Contract shall continue in full force and effect.

21.2 The Seller undertakes that whilst working upon any premises or site occupied by the Buyer it shall observe all the Buyer's site rules, health and safety regulations, and if requested to do so by the Buyer, the Seller shall attend any site or health and safety

induction course. If any of the Seller's servants or agents commits any breach of the Buyer's site rules or health and safety regulations, the Buyer shall be entitled to request the Seller to remove such servant or agent.

21.3 Where the Goods are supplied to a Delivery Address in England or Wales, the Contract shall be governed by the laws of England and Wales and the Seller agrees to submit to the non-exclusive jurisdiction of the English courts. Where the Goods are supplied to a Delivery Address in Scotland, the Contract shall be governed by the laws of Scotland and the Seller agrees to submit to the non-exclusive jurisdiction of the Scottish courts.

21.4 Failure or delay by the Buyer in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

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

21.6 Any disputes arising out of or under this Contract may be referred by either party for the decision of an adjudicator who shall be agreed by the Parties or failing agreement shall be appointed by the President of the Royal Institute of Chartered Surveyors and the adjudication shall be carried out in accordance with the Scheme for Construction Contracts (England & Wales) Regulations 1998 or any amendments thereto. The adjudicator's decision shall be binding until finally agreed in writing between the parties or by litigation.

21.7 Force Majeure – Neither the Seller nor the Buyer shall be liable for any failure or delay in performing under the Contract which arises from circumstances or occurrences beyond the respective party's reasonable control, including but not limited to acts of God, strikes, lock outs or other industrial disputes (other than involving either party's own workforce), war, riot, fire, flood, or any disaster affecting either the Buyer or the Seller.

21.8 The Seller shall in the performance of the Contract (at no additional cost to the Buyer) ensure compliance in all respects with relevant and binding UK and Community Laws or any other regulation or by-law from time to time in force which is or may become applicable during the period the Contract is in force.

21.9 O&M Information/Certificates of conformity – it is a condition of the Contract that full technical and maintenance information is provided by the Seller for insertion into the O&M manuals. This information shall be submitted within 5 working days of the Delivery Date.

21.10 Competition law develops and evolves over time but most important sources of law at present are the Competition Act 1988, which prohibits anti-competitive agreements and the abuse of a dominant position, and the Enterprise Act 2002, which introduced criminal sanctions for cartels. The Seller shall at all times observe, perform and comply with all statutory and other obligations of all current Acts and shall indemnify and keep indemnified the Buyer from and against all of the breach or non-compliance of any such obligations. Substance misuse (for example, alcohol and drugs).

21.11 Any personnel delivering to or visiting site shall comply with the Buyer's and any client imposed Substance Misuse/abuse Policy. The Buyer's Substance Misuse Policy sets minimum standards in respect of substance misuse rules and procedures. Appropriate information on the substance misuse policy and work rules can be provided by the Buyer on request.

21.12 The Seller shall ensure that personnel under its control submit themselves for random, post-accident/incident or "for cause" testing for alcohol and or drugs if requested by the Buyer's site management. The Buyer reserves the right to refuse entry or remove from site any of its visitors or suppliers who appear unfit through substance misuse. Illegal drugs or alcohol shall not be brought within the Delivery Address.

21.14 [The Seller hereby warrants that neither the performance, functionality or operation of any Goods, equipment or systems supplied, nor connected or associated goods, equipment or works shall be adversely affected by the failure of Goods, equipment or systems supplied to recognise, treat or establish dates or periods of time correctly and accurately including in particular but without limitation, the effect of such a failure on the capture, saving,

retention, correct and accurate manipulation, calculation and processing of data and information.]