

## **J SUPPLY OF GOODS**

### **J1 The Goods**

- J1.1 The Contractor shall supply and, where relevant, install the Goods in accordance with the Specification.
- J1.2 If requested by the Client, the Contractor shall provide the Client with samples of Goods for evaluation and Approval, at the Contractor's cost and expense.
- J1.3 The Contractor shall ensure that the Goods are fully compatible with any Equipment, to the extent specified in the Specification.
- J1.4 The Contractor acknowledges that the Client relies on the skill and judgment of the Contractor in the supply of the Goods and the performance of its obligations under the Contract.

### **J2 Contract Performance**

- J2.1 The Contractor shall perform its obligations under the Contract:
  - (a) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
  - (b) in accordance with Good Industry Practice; and
  - (c) in compliance with all applicable Laws.
- J2.2 The Contractor shall ensure that:
  - (a) the Goods conform in all respects with the Specification and, where applicable, with any sample approved by the Client;
  - (b) the Goods operate in accordance with the relevant technical Specifications and correspond with the requirements of the Specification and any particulars specified in the Contract;
  - (c) the Goods conform in all respects with all applicable Laws; and
  - (d) the Goods are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Contractor by the Client.

### **J3 Delivery**

- J3.1 The Contractor shall deliver the Goods at the time(s) and date(s) specified in the Specification.
- J3.2 Unless otherwise stated in the Specification, where the Goods are delivered by the Contractor, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Premises. Where the Goods are collected by the Client, the point of delivery shall be when the Goods are loaded on the Client's vehicle.

- J3.3 Except where otherwise provided in the Contract, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Contractor's suppliers or carriers at such place as the Client or duly authorised person shall reasonably direct.
- J3.4 The Client shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Client elects not to accept such over-delivered Goods it shall give notice in writing to the Contractor to remove them within five Working Days and to refund to the Client any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Client may dispose of such Goods and charge the Contractor for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Contractor unless they are accepted by the Client.
- J3.5 The Client shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.
- J3.6 Unless expressly agreed to the contrary, the Client shall not be obliged to accept delivery by instalments. If, however, the Client does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Client, entitle the Client to terminate the whole of any unfulfilled part of the Contract without further liability to the Client.

#### **J4 Ownership and Risk**

- J4.1 Subject to Clause J4.2, risk in the Goods shall, without prejudice to any other rights or remedies of the Client (including the Client's rights and remedies under Clause J6 (Inspection, Rejection and Guarantee)), pass to the Client at the time of delivery.
- J4.2 Ownership in the Goods shall, without prejudice to any other rights or remedies of the Client (including the Client's rights and remedies under Clause J6 (Inspection, Rejection and Guarantee)), pass to the Client at the time of delivery (or payment, if earlier).

#### **J5 Non-Delivery**

- J5.1 On dispatch of any consignment of the Goods the Contractor shall send the Client an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. Where the Goods, having been placed in transit, fail to be delivered to the Client on the due date for delivery, the Client shall, (provided that the Client has been advised in writing of the dispatch of the Goods), within ten Working Days of the notified date of delivery, give notice to the Contractor that the Goods have not been delivered and may request the Contractor free of charge to deliver substitute Goods within the timescales specified by the Client or terminate the Contract in accordance with Clause J3.4 (Delivery).

#### **J6 Inspection, Rejection and Guarantee**

- J6.1 The Client or its authorised representatives may inspect or test the Goods either complete or in the process of manufacture during normal business hours on reasonable notice at the Contractor's Premises and the Contractor shall provide all reasonable assistance in relation to any such inspection or test free of charge. No

failure to make a complaint at the time of any such inspection or test and no Approval given during or after such inspection or test shall constitute a waiver by the Client of any rights or remedies in respect of the Goods and the Client reserves the right to reject the Goods in accordance with Clause J6.2.

J6.2 The Client may by written notice to the Contractor reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Client of such Goods. If the Client rejects any of the Goods pursuant to this Clause the Client may (without prejudice to other rights and remedies) either:

- (a) have such Goods promptly, and in any event within five Working Days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or
- (b) treat the Contract as discharged by the Contractor's breach and obtain a refund from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Client in obtaining other Goods in replacement provided that the Client uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods. For the avoidance of doubt, the Client will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with this Clause J6.2.

J6.3 The issue by the Client of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Client's acceptance of them.

J6.4 The Contractor hereby guarantees the Goods for the period from the date of delivery to the date 18 months thereafter against faulty materials or workmanship. If the Client shall within such guarantee period or within 25 Working Days thereafter give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Contractor shall (without prejudice to any other rights and remedies which the Client may have) promptly remedy such defects (whether by repair or replacement as the Client shall elect) free of charge.

J6.5 Any Goods rejected or returned by the Client as described in Clause J6.2 shall be returned to the Contractor at the Contractor's risk and expense.

## **J7 Labelling and Packaging**

J7.1 The Goods shall be packed and marked in a proper manner and in accordance with the Client's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Contract number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.

## **J8 Training**

- J8.1 Where indicated in the Specification, the Contract Price shall include the cost of instruction of the Client's personnel in the use and maintenance of the Goods and such instruction shall be in accordance with the requirements specified in the Specification.

## **J9 Manner of Carrying out Installation Work**

- J9.1 The Contractor shall not deliver any materials or plant nor commence any work on the Premises without obtaining prior Approval. Notwithstanding the foregoing, the Contractor shall, at the Client's written request, remove from the Premises any materials brought into the Premises by the Contractor, which in the reasonable opinion of the Client are either hazardous, noxious or not in accordance with the Contract and substitute proper and suitable materials at the Contractor's expense as soon as reasonably practicable.

- J9.2 When the Contractor reasonably believes it has completed the Installation Works it shall notify the Client in writing. Following receipt of such notice, the Client shall inspect the Installation Works and shall, by giving written notice to the Contractor:

- (a) accept the Installation Works, or
- (b) reject the Installation Works and provide reasons to the Contractor if, in the Client's reasonable opinion, the Installation Works do not, meet the requirements set out in the Specification.

- J9.3 If the Client rejects the Installation Works in accordance with Clause J9.2(b), the Contractor shall immediately rectify or remedy any defects and if, in the Client's reasonable opinion, the Installation Works do not, within five Working Days, meet the requirements set out in the Specification, the Client may terminate the Contract with immediate effect by notice in writing.

- J9.4 The Installation Works shall be deemed to be completed when the Contractor receives a notice issued by the Client in accordance with Clause A5.1. Notwithstanding acceptance of any Installation Works in accordance with that Clause, the Contractor shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the Specification. No rights of estoppel or waiver shall arise as a result of the acceptance by the Client of the Installation Works.

- J9.5 Throughout the Contract Period, the Contractor shall:

- (a) have at all times all licences, Approvals and consents necessary to enable the Contractor and Staff to carry out the Installation Works;
- (b) provide all tools and Equipment (or procure the provision of all tools and Equipment) necessary for completion of the Installation Works;
- (c) not, in the performance of its obligations under the Contract, in any manner endanger the safety or unlawfully interfere with the safety or convenience of the public.

J9.6 On completion of any Installation Works the Contractor shall remove its plant, Equipment and unused materials and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained therein, other than fair wear and tear, which is caused by the Contractor or any Staff.