

# Purchase Order Terms & Conditions

Last Revision: 1<sup>st</sup> November 2023

## DEFINITIONS

The following definitions shall be used throughout the following document:

<b>LMS</b>	LMS Highways Ltd (Company reg. no. 1098038). Registered Office: Cockington Court, Cockington Lane, Torquay, Devon, TQ2 6XA.
<b>Terms &amp; Conditions</b>	The terms and conditions specified within this document.
<b>The Supplier</b>	Any individual person firm or company providing Goods or Services to LMS.
<b>Goods</b>	Products supplied to LMS by The Supplier.
<b>Services</b>	Services supplied to LMS by The Supplier.
<b>Contract</b>	The written or implied Contract of sale between LMS and The Supplier.
<b>Purchase Order</b>	The Purchase Order provided by LMS to The Supplier.
<b>Purchase Order Number</b>	The reference number provided on the Purchase Order.
<b>Order</b>	The request issued by LMS to The Supplier to provide Goods or Services.

### 1. General

- 1.1. These Terms & Conditions will apply unless LMS specifies different terms and conditions in its tender or quotation documentation or some other contract entered into by the parties. If different terms and conditions are specified by LMS those terms and conditions will override these Terms and Conditions and will be provided in writing and mutually agreed by both parties.
- 1.2. Terms and conditions issued by The Supplier which are inconsistent with these Terms & Conditions or which purport to add to or vary them in any way shall not have any effect unless expressly accepted by LMS in writing. In the absence of such written acceptance The Supplier shall be deemed to have withdrawn or waived his terms and conditions and to Contract solely on the basis of these terms and conditions and acceptance of Goods and/or Services shall not constitute or be deemed to constitute acceptance by LMS of The Suppliers terms and conditions.
- 1.3. The Contract shall commence and The Supplier will be Contractually bound upon the despatch of a Purchase Order by LMS.

## **2. Purchase Order**

- 2.1. The Supplier shall ensure that the Goods and/or Services shall:
- (a) correspond with the quantity and type and sort and quality and description set out in the Purchase Order;
  - (b) meet the performance standards and dates specified on the Purchase Order or notified to The Supplier by LMS;
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by The Supplier or made known to The Supplier by LMS;
  - (d) where applicable be free from defects in design materials and workmanship and remain so for 12 months after delivery;
  - (e) comply with all applicable statutory and regulatory requirements relating to the: manufacture and labelling and packaging and storage and handling and delivery of the Goods.
- 2.2. If the Goods and/or Services do not comply with the Purchase Order or requirements in section 2.1 LMS is entitled at its option to return the Goods at the risk of The Supplier or reject the Goods and/or Services or require The Supplier to re-perform the Services or accept the whole or part of the Goods and/or Services supplied by The Supplier but without prejudice to any rights of LMS to claim compensation or damages for loss or damage suffered as a result of failure to comply.
- 2.3. If The Supplier fails to deliver the Goods and/or perform the Services by the date specified in the Purchase Order LMS shall be entitled to terminate the Contract without notice.

## **3. Price, Payment & Set Off**

- 3.1. The price for the Goods and/or Services shall be the price set out in the Purchase Order and shall be inclusive but not limited to the costs of packaging and insurance and carriage of the Goods and/or provision of the Services. No extra charges shall be effective unless agreed by LMS.
- 3.2. In respect of Goods The Supplier shall invoice LMS on or at any time after completion of delivery. In respect of Services The Supplier shall invoice LMS in full or monthly or quarterly as agreed. The valid VAT invoice must contain the Purchase Order Number and shall include such supporting information required by LMS to verify the accuracy of the invoice.
- 3.3. LMS will pay the invoiced amounts by the last day of the month following the one in which a valid and correct invoice is dated to a bank account nominated in writing by The Supplier. LMS must have received a copy of the invoice by the 5th day of the following month from which the invoice is dated.
- 3.4. LMS may without limiting its other rights or remedies set off any amount owing to it by The Supplier

#### **4. Indemnity and Insurance**

- 4.1. The Supplier shall hold and keep LMS indemnified in full against all costs and expenses and damages and losses (whether direct or indirect) including any interest fines legal and other professional fees and expenses awarded against or incurred or paid by LMS due to or arising out of the performance of the Contract or any breach by The Supplier of these terms and conditions or any term or obligation implied by law or any statutory provision that may be in force from time to time. The Supplier shall at all times have sufficient insurances in place and provide written evidence to LMS upon request.

#### **5. Confidentiality**

- 5.1. The Supplier shall treat all confidential information belonging to LMS as confidential and safeguard it accordingly and shall not disclose any confidential information without the prior written consent of LMS.

#### **6. Termination**

- 6.1. In addition to clause 2.3 and 7.1 LMS may terminate the Contract with immediate effect if at any time after the commencement of the Contract The Supplier commits:
- (a) a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days after receiving notice of the breach;
  - (b) commits a material breach which cannot be rectified.

#### **7. General**

- 7.1. Force majeure - neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent The Supplier from supplying the Goods and/or Services for more than 4 weeks LMS shall have the right without limiting its other rights or remedies to terminate the Contract with immediate effect by giving written notice to The Supplier.
- 7.2. Assignment and subcontracting - The Supplier shall not assign or transfer or charge or subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of LMS.
- 7.3. Notices - Any notice or other communication required to be given under or in connection with the Contract shall be in writing and shall be delivered to the other party by prepaid first- class post.

- 7.4. Waiver - No delay or neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Contract.
- 7.5. No partnership - Nothing in the Contract is intended to or shall be deemed to constitute a partnership of any kind between any of the parties.
- 7.6. Contracts (Rights of Third Parties) Act 1999 - A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 7.7. Variation - Any variation including any additional terms and conditions to the Contract shall only be binding when agreed in writing and signed by LMS.
- 7.8. Severance - Severance of any provision in the Contract shall in whole or in part be held to any extent to be unlawful or unenforceable under any enactment or rule of law the remainder of the provisions shall stand in full force and effect.
- 7.9. Statutory Requirements - The Supplier shall comply with all statutes and/or orders and/or regulations or bye laws applicable to the performance of the Contract and shall indemnify LMS against all losses claims liabilities expenses proceedings or otherwise as a result of noncompliance with the same by The Supplier.
- 7.10. Governing law and jurisdiction - The Contract shall be governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 7.11. We reserve the right to change or update these Terms & Conditions from time to time without prior notice. Revised terms and conditions will be published on our web site.