

ECO-1 ELECTRICAL SOLUTIONS LIMITED

STANDARD CONDITIONS OF PURCHASE

Version 1-1 PC - December 2011

1. Recitals

1.1 The parties referred to in these Conditions shall be those parties shown on the attached Order and the terms referred to shall have the meanings ascribed to them in that Order.

1.2 The "Goods" shall mean the articles or materials, which are the subject of the Order. The "Main Contract" shall mean the contract which the Company has undertaken with its customer for the supply and installation of services and goods. The "Works" shall mean the supply and installation of services and goods under the Main Contract. The "Supply Contract" shall mean the contract formed by the order and acceptance thereof. The employer shall mean the organisation(s) or bodies that have caused the Works to be undertaken. The term "Insolvent" shall include the appointment of receivers, administrators or liquidators, entering into creditor's arrangements, or other default in payment mechanisms as well as usual legal tests for insolvency.

1.3 All goods shall be supplied against an official order ("the Order") signed by a duly authorised officer of the Company.

2. Offer and Acceptance

2.1 The Order constitutes an offer on the part of the Company, which must be accepted in writing by the Supplier or by the actual execution of the Order.

2.2 The Supplier shall not later than 7 days of its receipt of the Order sign and return the Order to the Company to signify its acceptance of the same and the Conditions. Any performance or partial performance by the Supplier of any of its obligations under the Supply Contract shall constitute acceptance of the Order and the Conditions.

2.3 Unless any other terms and/or conditions are expressly accepted by the Company in writing and are appended to or are referred to in the Order they shall be deemed to be excluded from the Supply Contract.

2.4 Acceptance of the Order will be deemed to bind the Supplier to these Conditions and no Goods shall be supplied by the Supplier, its employees, agents or representatives except in accordance with these Conditions. In the event of any conflict between these Conditions and any conditions of the Supplier then these Conditions will prevail.

3. Acknowledgement of Delivery

3.1 In the event that the Supplier delivers Goods and an employee of the Company signs a delivery note this shall solely act as an indication that the Goods have been delivered and neither the Company nor an employee of the Company accepts responsibility that the Goods have been checked or examined for quantity, shortages, breakages or defects.

3.2 The Order Number must be indicated clearly on all advice/delivery notes, invoices and packages.

4. Quality of the Goods

4.1 The Supplier warrants that the Goods are of reasonable quality and indemnifies the Company against any loss, liability or expense caused by any lack of reasonable quality, defective nature or lack of safety.

4.2 The Company reserves the right at any time to reject any Goods which are faulty or do not conform to the quality, standard or description as specified in the Order whether or not payment for such Goods has been made. The Company may return the rejected goods at the Supplier's risk and expense.

5. Postponement

5.1 If there is any break in the Company's business which is caused by a matter beyond the Company's control which prevents the use of the Goods then the Company reserves the right to suspend the Order.

5.2 In the event of postponement the provisions of Clause 10 shall apply.

6. Delivery

6.1 Time shall be of the essence in the performance by the Supplier of its obligations under the Order or the Conditions.

6.2 Where action is required to be undertaken within a specified period of Days after or from a specified date, the period will begin immediately after that date or if not stated from the date of order. Where the period would include a Public Holiday that Day will be excluded.

6.3 The Company shall not accept any charge for pallets, crates, packages, boxes or containers of any description. No cutting charges will be accepted for cable except by prior arrangement. No small order surcharges will be accepted and no minimum order charges will be accepted.

6.5 Any Goods delivered in excess of the Order shall be the responsibility of the Supplier.

6.6 Delivery includes off-loading the Goods and placing the same in a reasonably accessible position.

7. The Supplier's Obligations

7.1 The Supplier shall supply/deliver the goods fully in accordance with the requirements of the Order, The Conditions, the Specification and any reasonable directions and instructions issued by the Company. The Supplier shall also comply with the Main Contract Conditions and the Contract Documents insofar as they relate to the supply/delivery of the goods.

7.2 The Supplier agrees that it will perform its obligations under the Supply Contract in a way so as to enable the Company to discharge its obligations under the Main Contract and acknowledges that if the Supplier is in breach of Clause 17.1, such breach may result in the Company committing a breach of the Main Contract and/or other contracts made by the Company in connection with the Works and may occasion further damages, loss and/or expense to the Company in connection with the Works.

7.3 The Company and the Supplier hereby acknowledge that any such damages, loss and expense are hereby agreed to be within their contemplation as being probable results of any such breach or default by the Supplier and the Supplier shall indemnify the Company against any and all results of any such breach or default.

7.4 If the Goods are not delivered to the Site by or on behalf of the Supplier by the Date for Delivery, the Company may, without having any liability to the Supplier, cancel in whole or in part the Supply Contract and shall be entitled to purchase replacement Goods from an alternative source. Any additional cost incurred as a result of the cancellation of the Supply Contract under this Clause shall be paid by the Supplier to the Company.

8. Vesting of Goods and Risk

8.1 The Supplier warrants that it has full title in the Goods and that it will transfer the same to the Company. The Goods shall become the property of the Company after the Company has accepted it at the Site. Where the Company collects the Goods from the Supplier's premises it shall become the property of the Company after it has been safely loaded onto the Company's vehicle.

8.2 Risk of loss of or damage to the Goods shall not pass from the Supplier to the Company until it has been safely unloaded at the Site by or on behalf of the Supplier or where it is collected by or on behalf of the Company from the Supplier's premises it has been safely loaded onto the Company's vehicle.

9. Goods Standards

9.1 The Goods shall be new, unused and free of any damage unless the Company has otherwise agreed in writing.

9.2 The Company or his nominee shall have access to any premises at any reasonable time before delivery to inspect and test the Goods and shall also have the right to inspect and test the Goods before delivery and acceptance takes place as and when required.

9.3 The Supplier shall give at least 7 Days' notice to the Company of its intention to carry out such inspection or test and the Company or its nominee shall be entitled to attend.

10. Supplier's Default

10.1 Where all or any part of a batch of Goods fails to comply with the Specification or with any requirement contained in any document referred to therein or elsewhere in the Supply Contract relating to quality, quantity, materials, workmanship and/or design, the Company may, acting reasonably, reject either all of the batch of Goods or part of such batch of Goods.

10.2 At the Company's option, any Goods which are rejected shall be either replaced by the Supplier within 7 Days (or within such other reasonable period) or the Company may cancel, without liability to the Supplier, the Supply Contract relating to such rejected Goods and shall be entitled to a full refund of the price relating to such rejected Goods if the Company has paid for them and any incurred cancellation cost.

11. Set-Off

11.1 The Company reserves the right to deduct from any monies due or becoming due to the Supplier any monies due from the Supplier to the Company.

11.2 The Company shall be entitled to set-off against any sums otherwise due to the Supplier the amount of any damage, cost, losses and expenses which have been incurred by the Company from any sums otherwise due or becoming due to the supplier.

12. Variation

12.1 No variation in price will be accepted unless notice has been given to the Company of such variation and the Company's written approval has been obtained prior to execution of the variation.

12.2 Where agreement has been reached to accept a variation the Company shall still be at liberty to cancel the Order or part of it should the Company determine that the price increase is excessive.

13. Payment

13.1 The Price is that stated in the Order.

13.2 The Supplier shall submit to the Company following the supply/delivery of that part or those parts of the Goods that is or are required to be supply/delivered before the relevant stage payment becomes payable, an invoice for the corresponding stage payment.

13.3 Subject to any right of abatement or set-off it may have, the Company shall pay the Supplier the amount of the relevant stage payment that is payable not later than 60 Days from the end of the month in which the invoice was received.

13.4 If the Employer, or any other person on whom the Employer depends for making payment in connection with the Contract, shall become insolvent, the Company shall not be obliged to make any further payment to the Supplier of any sum which is due or may become due to the Supplier unless and until the Company has received payment in respect thereof from the Employer and then only to the extent of such receipt.

13.5 The making of any stage payment by the Company to the Supplier shall not constitute or be deemed to constitute acceptance on the part of the Company that the Goods supplied/delivered by the Supplier complies with the Specification or is otherwise in accordance with the Supply Contract.

a) Invoices received must state the relevant order number and will not be paid without this information.

b) Invoices received after the 4th day of the month following dispatch of the Goods will be allocated to the month of receipt of invoice irrespective of the invoice date.

c) Invoices which are incorrect will be allocated to the month in which the correction is received.

d) Invoices for goods not received will be held until the Goods are received. Invoice allocation in this case will be for the month in which the goods have been received.

14. Cancellation

14.1 The Order may be cancelled at any time by the Company giving to the Supplier notice in writing. A fair and reasonable price shall be paid for all Goods received by the Company to the date of cancellation.

14.2 The Company shall not be liable for any loss to the Supplier including consequential loss as a result of such cancellation.

15. Determination of Supplier's Employment

15.1 In the event that the employment of the Supplier under the Supply Contract is determined, the Company shall be liable to the Supplier for all sums that may be due or may accrue due in respect of the Goods to the Site up to the expiry of that 14 Day period. The Company shall have no further liability to the Supplier whether for loss of profit or for any other loss the Supplier may incur as a result of the determination.

15.2 The Company may by notice in writing forthwith determine the employment of the Supplier under the Supply Contract without any liability to the Supplier if the Supplier:-

- a) Without reasonable cause suspends the supply/delivery of the Goods before the Date for Delivery and fails to resume the supply/delivery within 7 Days of receiving a written request to do so from the Company;
- b) Refuses to or persistently neglects after receiving written notice from the Company to remove defective work or improper Goods as a result of which the Works are materially affected;
- c) Supplies or delivers to the Site Goods that fails to satisfy any of the conditions of the Supply Contract relating to specification, quality, quantity and workmanship and/or design (in these circumstances, the Company shall be entitled to reject the Goods supplied or delivered to the Site by or on behalf of the Supplier); or

16. Warranty

16.1 The Supplier warrants that it has full title to the Goods and that the design, construction and quality of the Goods comply in all respects with any legislation or regulations in force at the time.

16.2 The Supplier warrants that the sale or use of the Goods by the Company will not infringe any British or foreign patent trademark name or registered design.

16.3 The Supplier indemnifies the Company against loss, damage, liability, cost or expense which the Company may suffer or incur by reason of any breaches of the above Warranties.

17. Defects Liability

17.1 If any time prior to the expiry of the Defects Liability Period under the Main Contract the Company decides that any Goods supplied/delivered by the Supplier are defective or not in accordance with the Supply Contract or that the Goods which have been supplied/delivered does not fulfill the requirements of the Supply Contract (hereinafter referred to as a "**Defect**"), the Supplier shall as soon as reasonably practicable of receiving a notice in writing from the Company to do so, make good the Defect. The Company shall have the right to assign to the Employer the benefit of this warranty.

17.2 The Supplier shall indemnify the Company against the cost of any work done by or on behalf of the Company, or of any damage which the Supplier is liable to rectify, resulting from Defects in the Goods and against all other costs, losses, expenses and liabilities incurred by the Company as a result of Defects in the Goods. If the Supplier does not fulfill its obligations within a reasonable time of the Company giving the Supplier notice so to do, the Company may carry out such obligations but without prejudice to any other right of the Company arising from the Defects so remedied.

17.3 The Supplier shall remain liable to the Company in respect of any Defect(s) which arise in the Goods after the expiry of the Defects Liability Period up to a maximum of 12 years from practical completion of the works.

18. Damages for Delay

18.1 If the Supplier does not deliver the Goods to the Site, or make it available for collection from its premises by or on behalf of the Company by the Date for Delivery, the Supplier shall indemnify the Company against all damages, loss, cost and expense (including liquidated damages under the Contract), incurred by the Company as a consequence.

19. Suspension

19.1 The Company may instruct the Supplier to suspend and then recommence the supply/delivery of the Good which instruction shall be final and binding on the Supplier (hereinafter referred to as a "Suspension Order"). If the suspension arises as a result of:-

- a) The Supplier's non-performance of any of its obligations under the Supply Contract;
- b) The need to protect or keep safe any person or property; or
- c) The need to comply with an order of a court,
- d) Any other reason outside of the Company's control

The Supplier shall have no right to be paid any costs, expenses or damages arising from the suspension.

19.2 If the suspension under Clause 19.1 arises from a cause other than one set out in Clauses 19.1a to 19.1d, the Suspension Order shall entitle the Supplier to be paid by the Company the reasonable extra costs properly incurred by the Supplier as a result of the suspension. The Supplier must take all steps possible to mitigate its extra costs. This will be the Supplier's only entitlement to payment of money arising from a Suspension Order.

19.3 The Supplier shall not be entitled to an extension of time if the suspension arises from any failure by the Supplier to perform any of its obligations under the Supply Contract.

20. Assignments

20.1 The Supplier shall not at the written consent of a Company sign, transfer or sub-let the contract or any part thereof other than for minor details or for any part thereof other than for minor details.

21. Third Party Rights

21.1 Any person who is not a party to the Supply Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Supply Contract provided always that this shall not affect any right or remedy of such person which exists or is available apart from the Act.

22. Works and Services

22.1 Where the Supplier is also required to undertake works and services then the Company's Standard Sub-Contract Conditions shall apply.

23. Effective Date

23.1 The Supply Contract shall take effect (hereinafter referred to as the "**Effective Date**"); on the date on which the Company issues the Order to the Supplier or by the date/instruction intent is given by an authorized person in writing.

24. Amendments

24.1 No amendment to or modification of the Order or of the Conditions shall be valid or binding on either Party unless it is made in writing, refers expressly to this Clause 24.1 and is executed by the Parties concerned or by their duly authorised representatives.

25. Jurisdiction

25.1 The Law of England and Wales shall be the proper law of these Conditions.

26. Confidentiality

26.1 The Supplier shall not disclose any information provided to it by the Company to any third person save for the purposes of making a declaration to its insurers or obtaining legal or other professional advice on the terms of the Supply Contract, including the Conditions. The Supplier shall not for the purposes of publication take nor permit to be taken any visual records nor make any other publication in connection with the Works unless written permission has first been obtained from the Company.