

# Terms of Business for Purchase - Conditions and Instructions



1. **Definitions.** For the purpose of these conditions and instructions the expression "the Purchaser" means Envirotech Facilities Management Limited and the expression "the Supplier" means the Supplier on whom the purchase order is placed.
2. **Supplier's Conditions.** This order contains the entire agreement and understanding between the Supplier and the Purchaser and merges all prior discussions and negotiations between them. Conditions stated in the Supplier's quotation, or in the Supplier's acknowledgement of receipt of this order shall not be binding on the Purchaser if in conflict with or in addition to any of the provisions of this order (including but not limited to delivery schedule, price, quantity, specifications and terms and Conditions) unless expressly agreed to in writing by the Purchaser. This order may not be changed orally.
3. **Precedence.** If there is any inconsistency between the documents comprising the contract, they shall have precedence in the following order:
  - a. The Purchase Order
  - b. Any other document specified in the purchase order. To the extent that the parties have executed a separate agreement covering the subject matter of this purchase order, the terms of that separate agreement will supersede and prevail over the conditions and these conditions shall not apply to any such agreement.
4. **Deliveries.** The Purchaser's production schedules are based upon the agreement that materials will be delivered to the Purchaser, or services performed for the Purchaser, by the date specified on the face of this order. Time is therefore the essence of this order. If the Supplier fails to make deliveries or perform the services at the time agreed upon or perform the work hereunder in such a fashion as endangers its ability to make timely deliveries or to render timely performance of services, the Purchaser reserves the right to cancel, purchase elsewhere, and hold the Supplier accountable for any additional costs or damages incurred by the Purchaser.
5. **Quantities.** Shipments must equal exact amounts ordered unless otherwise agreed by the Purchaser.
6. **Warranty.** The Supplier warrants all materials or services delivered hereunder to be free from defect of materials or workmanship and to conform strictly to the specifications, drawings or sample specified or furnished. This warranty shall survive any inspection, delivery, acceptance, or payment by the Purchaser of the materials or services.
7. **Inspection.** All material, workmanship, or services entering the performance of this order shall always be subject to the Purchaser's inspection and test 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 the Purchaser's premises unless otherwise specified. The Purchaser shall have the right to reject and return at the Supplier's expense or, in its discretion, to require the correction or replacement of materials. Workmanship, or services which are defective or do not conform to the requirements of this order. All rejects 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.
8. **The Purchaser's Property.** All material including tools, furnished or specifically paid for by the Purchaser shall be the property of the Purchaser, shall be subject to removal at any time without additional cost upon demand by the Purchaser, shall be used only in filling orders from the Purchaser, shall be kept separate from other materials or tools and shall be clearly identified as the property of the Purchaser. The Supplier assumes all liability for loss or damage, except for normal wear or tear, and agrees to supply detailed statements of inventory upon request by the Purchaser.
9. **Patents.** The Supplier agrees to defend, at its own expense, the Purchaser and distributor and dealers in and users of the product of the Purchaser, and to hold them harmless, with respect to any and all claims that the products or materials furnished by the Supplier under this order infringe U.K. and/or U.S. patents and with respect to any and all suits, controversies, demands, and liabilities arising out of any such claim, provided that the foregoing shall not apply to any infringement resulting from the Supplier's use of a patented invention required to comply with the written instructions of the Purchaser if such a patented invention is not normally utilized by the Supplier.
10. **Assignment.** The Supplier shall not delegate any duties, nor assign any rights of claims under this contract or for breach thereof, without prior written consent of the Purchaser and any such attempted delegation or assignment shall be void. All claims for monies due or to become due from the Purchaser shall be subject to deduction by the Purchaser for any set-off or counterclaim arising out of this or any other of the Purchaser's orders with the Supplier, whether such set-off or counter-claim arose before or after any such assignment by the Supplier.
11. **Changes.** The Purchaser may at any time, by a written order only and without notice to the sureties, make changes within the general scope of this order in anyone or more of the following:
  - a. drawings, designs, or specifications
    - i. method of shipment or packing
    - ii. quantities of articles to be furnished.
    - iii. place of delivery; and
    - iv. delivery schedules. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any parts of the work under this order, whether changed or not changed by any such order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the order shall be modified in writing accordingly. Any claim by the Supplier for adjustment under this clause must be asserted in writing within thirty days from the date of receipt by the Supplier of the notification of change, provided however, that the Purchaser, if it decided that the facts justify such action, may receive and act upon
12. **Price and Payment.**
  - a. The price of the goods or services shall be as specified in the purchase order, not higher than previously charged unless agreed in writing, unless the seller's standard charges are lower on their scheduled delivery than the prices quoted in the purchase order. In this event the buyer shall be entitled to purchase the goods or services at the lower price:
  - b. the seller shall invoice the buyer upon delivery of the goods or performance of the services. The payment shall be due 45 days from the end of the month in which the goods are delivered, or services are performed, subject to receipt by the buyer of a correctly presented invoice. The seller shall issue the buyer with a regular monthly statement showing amounts due or payable in respect of outstanding invoices.
13. **Bankruptcy.** In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the Supplier, or in the event of the appointment, with or without the Supplier's consent, of an assignee for the benefit of creditors or of a receiver, then the Purchaser shall be entitled to elect to cancel any unfilled part of this order without any liability whatsoever.
14. **Proof of Shipment.** The Supplier shall forward to the Purchaser, with the invoice, the express receipt or bill of loading, signed by the Carrier, evidencing the fact that shipment has been made.
15. **Title to Drawings and Specifications.** The Purchaser shall always have title to all drawings and specifications furnished by the Purchaser to the Supplier and intended for use in connection with this purchase order. The Supplier shall use such drawings and specifications only in connection with this order and shall not disclose such drawings and specifications to any person, firm or corporation other than the Purchaser's or the Supplier's employees, subcontractors or Government inspectors. The Supplier shall, upon the Purchaser's request or upon completion of the order, promptly return all drawings and specifications to the Purchaser.
16. **Publicity, Promotion or Advertising.** The Supplier shall not, without the Purchaser's prior written consent, issue any news release, advertising, publicity, or promotional material regarding this order (including denial or confirmation thereof).
17. **Governing Law.** This agreement shall be governed by, construed, and interpreted according to English Law.
18. **Termination.** In the event of a breach or non-observance by the Supplier of all or anyone of these conditions or instructions or if the Supplier (being an individual) shall commit an act of bankruptcy or a receiving order be made against him or if 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 Purchaser shall have the right to give the Supplier written notice forthwith determining the order always without prejudice to existing rights already agreed to the Purchaser.
19. **Vendors Modifications.** In the event that the Supplier intends to introduce modifications or alterations to the equipment or services to be supplied to the Purchaser hereunder the Supplier undertakes before any such modifications or alterations are put in hand against the order to give the Purchaser thirty days prior notice in writing thereof such notice which shall incorporate full particulars of the proposed modification or alteration with specific reference to the effort on weight, performance, interchangeability, delivery, price, means of application together with additional details outlining the reason for the proposed modification or amendment and the lists of parts to be called up or made redundant thereby. The Purchaser retains the right to request the equipment covered by the order to be manufactured to the pre-modified state at no additional charge or at his discretion, and to retain the right of cancellation without redress if such modification or alteration is unacceptable.
20. **Acceptance.** Commencement of performance pursuant to this purchase order constitutes acceptance hereof by the Supplier. If delivery dates cannot be met, inform the Purchaser in writing by return mail of the Supplier's best possible delivery for the Purchaser's acceptance.