

Terms and Conditions of Purchase of Goods and/or Services

These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

In the event of a conflict between any of these Conditions and anything in the Purchase Order, the latter shall prevail.

1.0 Definitions

1.1 In these Conditions:

"Business Day" means day other than a Saturday, Sunday or public holiday in England, when banks in England are open for business.

"Commencement Date" has the meaning set out in Condition 2.3.

"Conditions" means these terms and conditions as amended from time to time in accordance with Condition 2.2.

"Contract" means the contract between the Purchaser and the Supplier consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order.

"Delivery Date" means the date on which the Goods are to be delivered to the Purchaser, as specified in the Purchase Order.

"Goods" means any goods supplied to the Purchaser by the Supplier pursuant to or in connection with the Purchase Order.

"Price" means the price of the Goods and/or the Services as specified in the Purchase Order.

"Purchaser" means Sense Design Build Limited.

"Purchase Order" means the document setting out the Purchaser's requirements for the Contract.

"Services" means any services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Purchase Order.

"Supplier" or "Sub Contractor" means the person, firm or company who is the supplier of the Goods and/or Services named in the Purchase Order.

1.2 The headings in these Conditions are for convenience only and shall not affect its construction or interpretation.

2. Variation

2.1 These Conditions may only be varied with the written agreement of the Purchaser.

2.2 The Purchaser reserves the right by reasonable notice to the Supplier to vary the Goods and/or Services detailed in the Purchase Order and any alteration to the Price or delivery date arising by reason of such modification shall be agreed between the parties and evidenced in writing.

2.3 The Contract shall become binding and these Conditions shall be deemed to have been accepted by the Supplier on the acceptance of the Purchase Order by the Supplier (either verbally, in writing or by

signing the Purchase Order) or on delivery of the Goods or commencement of the Services, as the case may be, whichever is the earlier ("Commencement Date").

Purchase of Goods

3. Goods

- 3.1 The Supplier warrants and represents to the Purchaser that the Goods shall:
- 3.1.1 conform in all respects with any particulars or specification specified in the Purchase Order or as communicated in any email or other written correspondence between the parties prior to the placement of the order for the Goods and/or Services, including any variations which are agreed and communicated by the Purchaser subsequent to the Purchase Order.
 - 3.1.2 conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force.
 - 3.1.3 be of satisfactory quality and free from defects in materials and workmanship; and
 - 3.1.4 be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Purchaser and the Purchaser relies on the skill and judgement of the Supplier in the supply of the Goods and the execution of the Purchase Order whether as on a 'supply only' or 'subcontract' basis
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

4. Delivery

- 4.1 The Goods shall be delivered to the place named on, and in accordance with, the Purchase Order. Delivery shall be completed when the Goods have been unloaded at the point of delivery specified in the Purchase Order and delivery has been accepted by the Purchaser or its authorised representative.
- Any access to premises and any labour and equipment that may be provided by the Purchaser in connection with delivery shall be provided without acceptance by the Purchaser of any liability whatsoever or howsoever arising and the Supplier shall indemnify and keep indemnified the Purchaser in respect of any actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any damage or injury (including death) occurring in the course of delivery or installation to the extent that any such damage or injury is attributable to any act, omission or negligence of the Supplier or any of its sub-contractors.
- 4.2 Where any access to the premises is necessary in connection with delivery or installation, the Supplier and its sub-contractors shall at all times comply with the reasonable requirements of the Purchaser's authorised representative.
- 4.3 The time of delivery shall be of the essence for the purposes of the Contract and failure to deliver by the Delivery Date shall enable the Purchaser (at its option) to release itself from any obligation to accept and pay for the Goods and/or to cancel all or part of the Goods under the Purchase Order, in either case without prejudice to its other rights and remedies.
- 4.4 The Supplier's failure to effect delivery on the Delivery Date specified shall entitle the Purchaser to purchase substitute Goods and to hold the Supplier accountable for any and all loss and/or additional costs incurred as a result of such failure.

- 4.5 Failure by the Purchaser to exercise its options under Conditions 4.3 and/or 4.4 in respect of any part of a Purchase Order shall not be deemed to constitute a waiver with respect to any subsequent part of that Purchase Order.
- 4.6 If Goods are delivered before the Delivery Date, the Purchaser shall be entitled to its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the Delivery Date.
- 4.7 Unless otherwise stated in the Purchase Order, the Supplier is responsible for obtaining and the cost of all the export and import licences for the Goods, and in the case of the Goods supplied from outside the UK, the Supplier shall ensure that accurate information is provided to the Purchaser as to the country of origin and the Supplier shall be liable for additional duties or taxes should the country of origin prove to be different to the one stated.

5. Ownership and Risk

Ownership and risk in the Goods shall without prejudice to any of the rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 7 below) shall pass to the Purchaser on delivery.

6. Damage in Transit

- 6.1 On despatch of any consignment of the Goods, the Supplier shall send to the Purchaser at the address for delivery of the Goods, an advice note specifying the means of transport, the place and date of despatch, the number of packages and their weight and volume.
- 6.2 The Supplier shall, free of charge and as quickly as possible, either repair or replace (as the Purchaser shall elect in its sole discretion) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the Purchaser provided that:
- 6.2.1 in the case of damage to such Goods in transit the Purchaser shall within three (3) Business Days of delivery give notice to the Supplier that the Goods have been damaged; and
- 6.2.2 in the case of non-delivery the Purchaser shall (provided that the Purchaser has been advised of the despatch of the Goods) within three (3) Business Days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.

7. Inspection, Rejection and Guarantee

- 7.1 Nothing contained in these Conditions shall in any way detract from the Supplier's obligations under common law or statute or any express warranty or condition contained in the Purchase Order.
- 7.2 The Supplier shall permit the Purchaser or its authorised representatives to make any inspections or tests it may reasonably require in relation to the Goods and the Supplier shall afford all reasonable facilities and assistance free of charge at the Purchaser's premises. The Supplier shall make good any defects or deficiencies in the event of any failure (in the sole opinion of the Purchaser) to comply with the terms of the Purchase Order or the Contract. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Goods.
- 7.3 The Purchaser may by written notice to the Supplier reject any of the Goods which fail to meet the requirements in the Contract. Such notice shall be given within a reasonable time after delivery to the Purchaser of the relevant Goods. If the Purchaser rejects any of the Goods pursuant to this Condition 7.3, the Supplier shall at the Purchaser's absolute discretion (without prejudice to its other rights and remedies) either:

7.3.1 repair the defective Goods as quickly as possible or (as the Purchaser shall elect in its sole discretion) replace the defective Goods with Goods which comply in all respects with the requirements under the Contract; or

7.3.2 refund to the Purchaser the Price in respect of the defective Goods.

7.4 The Supplier warrants the quality and fitness for purpose of the Goods, as specified in Condition 3.1, for a period of twelve (12) months from installation or eighteen (18) months from delivery, whichever shall be the longer (subject to any alternative guarantee arrangements agreed in writing between the Purchaser and the Supplier).

If the Purchaser shall, within such warranty period or within thirty (30) days thereafter, give notice in writing to the Supplier of any defect in any of the Goods that have arisen during the guarantee period under proper and normal use, the Supplier shall (without prejudice to any of the Purchaser's other rights and remedies) as quickly as possible remedy such defects (whether by repair or replacement as the Purchaser shall elect in its sole discretion) without cost to the Purchaser.

7.5 Any Goods rejected or returned by the Purchaser pursuant to this Condition 7 shall be returned to the Supplier at the Supplier's risk and expense.

7.6 In relation to any Goods which require assembly and/or installation, the delivery of such Goods shall not be deemed to be completed until such assembly and/or installation has been effected by the Supplier.

8 Labelling and Packaging

8.1 The Goods shall be packed and marked in a proper manner and in accordance with the Purchaser's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Purchase Order number (if any) and, as applicable the net, gross and the weights, details of the contents shall be clearly marked on each container and all containers of hazardous goods (and all relating documents) shall bear prominent and adequate warnings.

The Supplier shall indemnify and keep indemnified the Purchaser and/or the Crown (as appropriate) against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser or the Crown (as appropriate) may suffer or incur as a result of or in connection with any breach of this Condition 8.1.

8.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. The Purchaser accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Purchaser.

9. Charges and Payment for Goods

9.1 The price for the Goods shall be the price set out in the Purchase Order.

9.2 Unless expressly agreed otherwise between the parties in writing, the Price shall be inclusive of all delivery, insurance and carriage costs, VAT and any other applicable sales taxes, duties or levies.

9.3 Unless otherwise agreed in writing by the Purchaser, the Supplier shall render a separate invoice in respect of each consignment of the Goods delivered under the Purchase Order, which identifies the Goods for each consignment to which the invoice relates.

9.4 The Purchaser undertakes to pay submitted valid invoice on the next payment run (**carried out fortnightly on a Friday**) within 30 days after receipt of the invoice by the Purchaser. Invoices shall not be rendered by the Supplier until completion of delivery of all the Goods and/or the Services (as appropriate) which are the subject of the Purchase Order or of the consignment (as appropriate).

9.5 A valid invoice for the purposes of Condition 9.5 is one that:

- is delivered in time in accordance with the contract.
- is for the correct sum.
- is in respect of goods supplied or delivered to the required quantity and (if applicable) quality.
- quotes the relevant purchase order / contract reference (where used).
- has been delivered to the nominated address.
- provides such information as the Purchaser may require to verify the accuracy of the invoice.
- identifies the company name, that it is an 'Invoice' or 'Credit Note' and shows the payment details for the Supplier.

Please Note that Changes to banking details post receipt of the invoice payment details in any separate correspondence shall not place any liability on the Purchaser should the payment be made to those on the Invoice.

9.6 The Purchaser specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier any monies due to the Purchaser from the Supplier.

9.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services and the Supplier shall allow the Purchaser to inspect such records at all reasonable times on request.

9.8 The Purchaser shall not be liable for any orders or amendments to orders other than those issued or confirmed on the Purchase Order (or as varied in accordance with Condition 2.2) and shall not be responsible for the payment of the Price for Goods supplied in excess of those required by the Purchase Order.

9.9 No payment of or on account of the Price shall constitute any admission by the Purchaser as to proper performance by the Supplier of its obligations under the Contract.

Sub Contractors

10. Sub Contractor obligations

10.1 The Subcontractor shall from the date set out in the Purchase Order and for the duration of the Contract supply the Services to the Purchaser in accordance with the terms of the Contract.

10.2 The Subcontractor shall meet any performance dates for the Services specified in the Purchase Order and time is of the essence in relation to any of those performance dates.

10.3 In performing the Services, the Subcontractor shall:

10.3.1 co-operate with the Purchaser in all matters relating to the Services and comply with all instructions of the Purchaser.

10.3.2 perform the Services with the highest care, skill and diligence in accordance with best practice in the Subcontractor's industry, profession or trade.

- 10.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them in sufficient numbers that the Subcontractor's obligations are fulfilled in accordance with the Contract;
- 10.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Purchase Order and that any Deliverables shall be fit for any purpose that the Purchaser expressly or impliedly made known to the Subcontractor;
- 10.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 10.3.6 use the best standard goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Purchaser, will be free from defects in workmanship, installation and design;
- 10.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 10.3.8 observe all health and Safety rules and regulations and any other security requirements that apply at any of the premises at which the Services will be provided; and
- 10.3.9 not do or permit to be do anything which may cause the Purchaser to lose any licence, authority consent or permission upon which it relies for the purpose of conducting its business, and the Subcontractor acknowledges that the Purchaser may rely or act on the Services.

11. Charges and Payment for the Services

- 11.1 The charges for the Services shall be set out in the Purchase Order and shall be the full and exclusive remuneration of the Subcontractor in respect of the performance of the Services. Unless otherwise agreed in writing by the Purchaser, the charges shall include every cost and expense of the Subcontractor directly or indirectly incurred in connection with the performance of the Services.
- 11.2 The Purchaser is a Construction Industry Scheme (CIS) registered contractor and is required to apply the scheme, therefore any invoice submitted to the Purchaser by the Subcontractor for CIS related work must refer to the fact that section 55A of the [Value Added Tax Act 1994 applies](#) or the Purchaser is to pay the VAT to HMRC such that no VAT will be applied other than to state the value of the VAT that the Purchaser will be required to pay to HMRC on behalf of the Subcontractor.
- 11.3 The Purchaser undertakes to pay submitted valid invoice on the next payment run (**carried out fortnightly on a Friday**) within 30 days after receipt of the invoice by the Purchaser. Invoices shall not be rendered by the Subcontractor until completion of delivery of all the Services which are the subject of the Purchase Order.
- 11.4 A valid invoice for the purposes of Condition 11.3.5 is one that:
 - is delivered in timing in accordance with the contract.
 - is for the correct sum.
 - is in respect of Services supplied.
 - quotes the relevant purchase order / contract reference (where used).
 - has been delivered to the nominated address.
 - provides such information as the Purchaser may require to verify the accuracy of the invoice.

- identifies the company name, that it is an 'Invoice' or 'Credit Note' and shows the payment details for the Supplier.

Please Note that Changes to Banking Details post receipt of the invoice payment details in any separate correspondence shall not place any liability on the Purchaser should the payment be made to those on the Invoice.

- 11.5 The Purchaser specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier any monies due to the Purchaser from the Supplier.
- 11.6 The Subcontractor shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services and the Supplier shall allow the Purchaser to inspect such records at all reasonable times on request. .
- 11.7 No payment of or on account of the Price shall constitute any admission by the Purchaser as to proper performance by the Supplier of its obligations under the Contract.

Purchase of Goods and/or Services

12. Intellectual Property

- 12.1 Except to the extent that the Goods and/or Services are supplied in accordance with designs provided by the Purchaser, it shall be a condition of the Purchase Order that none of the Goods will infringe any patent, trade mark, design right (whether registered or not), copyright or any other right in the nature of intellectual property of any third party and the Supplier shall indemnify and keep indemnified the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 12.1.
- 12.2 All materials, equipment, software, inventions, specifications, instructions, plans or any form of intellectual property right in any of the foregoing ("Intellectual Property"):
 - 12.2.1 furnished to or made available to the Supplier by the Purchaser pursuant to the Purchase Order are hereby assigned to and shall remain vested solely in the Purchaser; and
 - 12.2.2 the Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without prior written consent of the Purchaser, use or disclose any such Intellectual Property or any information (whether or not relevant to the Contract) which the Supplier may obtain pursuant to the Contract and in particular (but without prejudice to the generality of the foregoing) the Supplier shall not refer to the Purchaser or the Contract in any advertisement without the Purchaser's prior written agreement.

13. Health and Safety

- 13.1 The Supplier represents and warrants to the Purchaser that the Supplier has satisfied itself that:
 - 13.1.1 all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed, manufactured, supplied and installed so as to be safe and without risk to the health or safety of persons using the same; and
 - 13.1.2 that it has made available to the Purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health.
- 13.2 In any event, the Supplier will comply with the duties imposed on it by the Health & Safety at Work Act 1974 or any amendment thereto and of all other statutory provisions, rules, and regulations so far as

they are applicable. The Supplier shall indemnify and keep indemnified the Purchaser against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 13.

14. Indemnity and Insurance

- 14.1 Without prejudice to any rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 7 above) the Supplier shall indemnify and keep indemnified the Purchaser against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (including death) to any person which may result directly or indirectly from any defect in the Goods or the negligence, acts or omissions of the Supplier or any of its employees, agents or sub-contractors.
- 14.2 The Supplier shall take out and maintain with a reputable insurance company a policy or policies of insurance that are normal for contracts of this nature and covering all the matters which are the subject of indemnities under these Conditions.
- 14.3 The Supplier shall at the request of the Purchaser produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium. The supplier shall not unreasonably without the provision of this request.
- 14.4 The Supplier shall be liable under the provisions of the Contract (including Condition 14.1) whether or not it complies with the insurance provisions in this Condition 14.
- 14.5 Nothing in these Conditions or the Contract shall exclude or limit the liability of either party for death or personal injury caused by its negligence or for fraudulent misrepresentation.

15. GDPR and Confidentiality

- 15.1 The Supplier shall require and ensure that its staff shall keep secret and do not disclose any information of a confidential nature obtained by reason of the Contract except information which is in the public domain otherwise than as required to be by reason of a breach of this Condition 15 or disclosed by law.
- 15.2 The provisions of this Condition 15 shall apply during the continuance of the Contract and after its termination howsoever arising without limitation in time.
- 15.3 The parties acknowledge that, the content of this Contract is not Confidential Information. Notwithstanding any other term of this Contract, the Supplier hereby gives its consent for the Purchaser to publish the Contract in its entirety, including any changes to the Contract from time to time agreed, to any interested parties as maybe required at the sole discretion of the Purchaser.

16. Termination

- 16.1 In the event of a material breach of the Contract by either party, which is not remedied within 7 days of being notified of the breach by the other party, the non-breaching party may terminate the Contract with immediate effect by giving notice in writing.
- 16.2 The Purchaser may terminate the Contract with immediate effect by notice in writing to the Supplier if at any time: -
- 16.2.1 the Supplier passes a resolution that it be wound-up or that an application be made for an administration order, or the Supplier applies to enter into a voluntary arrangement with its creditors.

- 16.2.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Supplier's property, assets or any part thereof.
- 16.2.3 the court orders that the Supplier be wound-up or a receiver of all or any part of the Supplier's assets be appointed.
- 16.2.4 the Supplier is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.
- 16.2.5 the Supplier (being an individual or partnership) is declared or adjudicated bankrupt or enters into any arrangement or composition with its creditors.

16.3 Nothing in this Condition 16 shall affect the coming into, or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force upon termination of the Contract.

17. Assignment and Sub Contracting

- 17.1 The Supplier shall not without the prior written consent of the Purchaser assign or transfer the benefit or burden of the Contract.
- 17.2 No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.
- 17.3 Where the Purchaser enters a sub-contract or order with a contractor or supplier for the purpose of performing the Contract, it shall cause a clause to be included in such sub-contract or order which requires payment to be made to the supplier or contractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the sub-contract requirement. This also includes part payment agreements.
- 17.4 Deposit payments required to initiate an order often where no previous account facility or commercial relationship exists with a supplier / sub-contractor shall be made on receipt of a valid invoice and then within 14 days of that invoice date.

18. Notices

Any notices to be given under the Contract shall be delivered personally or sent by post or by email to the Services Manager (in the case of the Purchaser), the details of which will be set out in the Purchase Order or to the postal or email address set out in the Purchase Order (in the case of the Supplier). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, at 9.00am on the second Business Day after posting or, if sent by email, at 9.00am on the Business Day after sending.

19. Third Party Rights

The Contract/Order is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract /Order, including any rights enforceable under the Contracts (Rights of Third Parties) Act 1999.

20. Severability

If any provision under this Contract/Order is or becomes unenforceable, such provision shall not take effect and shall be deemed to be severed from the remainder of the Contract to the extent that the remainder of the Contract and the unaffected part of the provision shall continue to be fully enforceable.

21. Waiver

No delay or omission by the Purchaser in exercising any of its rights under the Contract shall constitute a waiver of that right and any partial exercise of any such right shall not prevent any future exercise of the right.

22. Law and Jurisdiction

The Contract and any dispute arising under or in any way connected with the subject matter of the Contract (whether of a contractual or tortious nature or otherwise) shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts only except that the Purchaser may seek injunctive relief outside such jurisdiction.