



Form Title: TERMS AND CONDITIONS OF PURCHASE
Form Ref: RRS01 – T&CoP
Author: Richardson Rail Services Ltd
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Richardson Rail Services Ltd.
Personal Development Specialist



TERMS AND CONDITIONS OF PURCHASE

RRS01-T&CoP

Abstract

Our standard terms and conditions when making any purchase

Richardson Rail Services Ltd.



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1 DEFINITIONS AND INTERPRETATION

1.1 In this Contract the following words should have the following meanings:

"Business Day" means a weekday (other than a Saturday, Sunday or public holiday in England) on which the banks are open for domestic business in the City of London;

"Buyer" means the company who issued the Purchase Order; "Buyer's Policies" means the Data Protection Policy and Policy on Alcohol and Drugs;

"Conditions" shall mean these Terms and Conditions of Purchase;

"Confidential Information" means information disclosed to the receiving party or which it obtains in relation to the other party which is of a confidential nature, including all technical or commercial know-how, specifications, inventions, processes, trade secrets, business affairs, initiatives, data, employee data or customer data and the terms of this Contract;

"Contract" means the contract between the Buyer and Seller consisting of the Purchase Order, the Conditions and any other documents specified in the Purchase Order;

"Data Protection Legislation" shall have the meaning given to it in the Data Protection Policy;

"Data Protection Policy" means the Buyer's policy in relation to data protection, which is included as Schedule 1 to this Purchase Order

"Deliverables" means any goods, products or works arising from the provision of the Services;

"Goods" means all goods specified in the Purchase Order (if any); "Government Authority" means any UK national, European Union, state or local government, any political subdivision thereof or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other similar entity and includes the Department for Transport, Secretary of State, Network Rail, RSSB and ORR; "parties" means both the Buyer and the Seller, and "party" shall mean either of them;

"Policy on Alcohol and Drugs" means the Buyer's policy in relation to alcohol and drugs, which the Buyer shall make available to the Seller on request

"Purchase Order" means the Buyer's Purchase Order which specifies that the Conditions apply to it;

"Screening Requirements" means that the person in question has provided bona fide documentary proof of an official nature evidencing: (i) their identity; (ii) their right to work in the United Kingdom; and (iii) any other matter that the Buyer may reasonably notify to the Seller from time to time;

"Seller" shall mean the person, firm or company to whom the Purchase Order is issued; and

"Services" means the services specified in the Purchase Order (if any).

1.2 References to a Clause are to a Clause in these Conditions.

1.3 The headings in these Conditions are for convenience only and shall not affect the interpretation of the Contract.

1.4 A reference to a party includes its personal representatives, successors or permitted assigns.

1.5 Any reference in this Agreement to any statute shall include references to any statutory modification of it or any re-enactment that supersedes it from time to time, and to any regulation or subordinate legislation made under it (or under such a modification or re-enactment).

1.6 Reference to the plural shall include the singular and vice versa, and reference to one gender includes reference to all genders. Any reference to a person shall be to all legal persons of whatever kind and shall include incorporated and unincorporated persons.

1.7 If there is any inconsistency between the documents comprising the Contract, they shall have precedence in the following order:

(1) the Purchase Order; (2) the Conditions; (3) the Buyer's Policies; and (4) any other documents specified in the Purchase Order.

2 BASIS OF THE CONTRACT

2.1 These conditions shall apply in respect of all goods and/or services ordered under a purchase order unless a written contract signed by both parties has been or is subsequently entered into for such goods and/or services.

2.2 Save as provided for in Clause 2.1 these Conditions apply to the Contract to the exclusion of any other terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing and this Contract comprises the entire agreement between the parties and replaces any previous agreement relating to the same subject matter. For the avoidance of doubt, the acceptance of Goods and/or Services by the Buyer in accordance with Clause 7 shall not constitute acceptance of any other terms or conditions. Variations to these Conditions shall only take effect in accordance with Clause 8.



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2.3 The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or Services and any Deliverables in accordance with these Conditions.

2.4 The Purchase Order shall be deemed to be accepted by the Seller on the earlier of:

- (a) the Seller issuing a written acceptance of the Purchase Order, and
- (b) the Seller performing any act consistent with fulfilling the Purchase Order.

3 GOODS

3.1 The Seller warrants that all and any Goods delivered under the Contract shall be:

- (a) of satisfactory quality and free from defects in material, design or workmanship;
- (b) fit for the purpose for which the Goods are reasonably required. If the Seller has any doubts as to the purpose for which the Buyer requires the Goods, it must seek clarification from the Buyer;
- (c) conform with any specifications, drawings, descriptions or samples provided by the Seller and/or referred to in the Contract;
- (d) free of any third party lien, claim, title or interest; and
- (e) the sole property of the Seller and that the Seller has full and unrestricted right and authority to supply to the Buyer.

3.2 The Seller warrants that the Goods shall be new, and that any item or component part comprising the Goods shall be new.

4 SERVICES

4.1 The Seller warrants that it shall provide the Services under the Contract:

- (a) promptly (and in any event in accordance with the provisions of Clause 5) and with all due skill, care and diligence and in accordance with generally recognised commercial practices and standards in the Seller's industry, trade or profession;
- (b) in accordance with the Purchase Order and any drawings, descriptions or samples provided by the Seller and/or referred to in the Contract;
- (c) using only appropriately experienced, qualified and trained personnel; and
- (d) in compliance with all laws and regulations applicable from time to time in the UK to the Services and the Deliverables and their use.

4.2 The Seller shall ensure that the Deliverables and all goods, materials, standards & techniques used in providing the Services are of satisfactory quality and free from defects in workmanship, installation and design.

5 DELIVERY

5.1 The date and location for delivery of the Goods and/or performance of the Services shall be that specified in the Purchase Order or, if not specified:

- (a) within 5 Business Days of the date of the Purchase Order, or as instructed by the Buyer,
- (b) at the applicable location as confirmed by the Buyer in writing, and
- (c) during the Buyer's normal hours of business, or as instructed by the Buyer.

Time shall be of the essence in relation to delivery and the Seller shall be responsible for any loss the Buyer suffers as a result of the late delivery of any Goods and/or performance of Services.

5.2 Delivery of Goods and/or Services may only be made in instalments if specified in the Purchase Order or through the express written instruction of the Buyer.

5.3 The Seller shall be responsible for packaging the Goods safely so as to protect the Goods and/or any item or part of the Goods during transportation, unloading or storage. The Seller must separately number all cases, packages or items. The Seller shall submit an itemised packing list or delivery note with the Goods on delivery showing the packing numbers and the Purchase Order number. The Purchase Order number and packing numbers must also be shown on any corresponding invoice and/or monthly statements.

5.4 Delivery of the Goods shall be completed on the completion of unloading the Goods at the delivery location.

5.5 The property and risk in the Goods shall remain with the Seller until they are delivered in accordance with this Clause 5 and shall transfer to the Buyer upon delivery in accordance with this Clause 5.

5.6 Where the Supplier is required to enter the Buyer's premises in order to supply the Goods or Services, the Supplier, its employees, agents and subcontractors shall at all times comply with all current applicable laws, regulations and approved codes of practice relating to health, safety, access and security, issued by appropriate authorities and all current policies and written or oral instructions relating to health, safety, access and security issued by the Buyer or its representatives.



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6 PRICE AND PAYMENT

6.1 The price for the Goods and/or Services shall be as specified in the Purchase Order, unless the Seller's standard charges for the Goods and/or Services are lower on the scheduled delivery date than the prices quoted in the Purchase Order. In this event, the Buyer shall be entitled to purchase the Goods and/or Services at the lower price.

6.2 The Seller warrants that the price set out in the Purchase Order for the Goods and/or Services is at least as low as the price at which the Seller is currently selling to its most favoured customer the Goods and/or Services or comparable Goods and/or Services in substantially similar volumes on broadly similar terms and conditions.

6.3 Unless otherwise stated in the Purchase Order or agreed by the Buyer in writing, the price is inclusive of all costs and expenses for the provision of the Goods and/or Services.

6.4 Unless stated otherwise in the Purchase Order, the price payable by the Buyer is deemed to be exclusive of VAT. The Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT (if any) as are chargeable on the supply of the Goods and/or Services.

6.5 Invoices must be forwarded to the Buyer in accordance with the instructions contained in the Purchase Order. Invoices must show the Purchase Order number and any delivery advice note number for any Goods delivered.

6.6 Any advance payments of the price made by the Buyer shall be held by the Seller as part payment and not as a deposit.

6.7 The Seller shall invoice the Buyer upon delivery of the Goods and/or performance of the Services. Payment shall be due according to the terms specified in the Purchase Order or, if not specified then the date 60 days after the later of:

- (a) the date of the Seller's invoice,
- (b) the date that the Buyer receives the Seller's invoice, or
- (c) the date that the Goods and/or Services are delivered and/or performed (as applicable) by the Seller in accordance with Clause 5.

6.8 In all cases, payment shall be due by the Buyer subject to delivery of the Goods and/or performance of the Services having been made by the Seller and the receipt by the Buyer of an invoice presented in accordance with this Clause 6.

6.9 The Seller shall issue the Buyer with a regular monthly statement showing amounts due or payable in respect of any outstanding invoices.

6.10 The Seller shall be entitled to charge interest on any undisputed overdue payment at the rate of 2% per annum above the base rate of Royal Bank of Scotland then prevailing, such interest being charged from the date on which the Seller notifies the Buyer of the overdue payment until payment of the amount due has been made.

7 ACCEPTANCE

7.1 The Buyer shall have the right to inspect the Services and test the Goods at any time before, during or after delivery or performance.

7.2 The Seller acknowledges that a complete inspection of the Goods and/or Services and/or Deliverables cannot be made on delivery and agrees that, by taking delivery of the Goods and/or Services, the Buyer is not agreeing that delivery constitutes satisfactory performance of the Contract and does not waive or relinquish any rights that it may have against the Seller for failure to discharge its obligations under the Contract.

7.3 Any payments by the Buyer to the Seller shall not signify acceptance of the Goods and/or Services. Provided that the Buyer has not notified the Seller of any non-conformance in accordance with this Clause 7 then the Goods and/or Services shall be deemed to have been accepted on the earlier of:

- (a) the date that the Buyer sends the Seller written notice of acceptance; and
- (b) the date 30 days after delivery of the Goods and/or performance of the Services.

7.4 Acceptance of any Goods and/or Services in accordance with this Clause 7 that are non-conforming for any reason shall be without prejudice to any rights of the Buyer, including in respect of any warranties or remedies, and shall not mean that the Goods and/or Services have been deemed to be compliant.

7.5 Where Goods and Services supplied by the Seller are defective or non-conforming for any reason, the Buyer shall give notice to the Seller of its rejection of the Goods and/or Services or part of them within a reasonable time of delivery and/or performance.

7.6 Without prejudice to any other remedies available to the Buyer, the Buyer shall have the option to require the Seller to re-perform, repair or replace Goods and/or Services which are defective or non-conforming promptly and at no expense to the Buyer, or to refund to the Buyer the price for the defective Goods and/or Services.

7.7 During any warranty period specified in the Contract, software updates and corrections shall be provided by the Seller



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free of charge.

8 VARIATION

Any variation to the Contract must be agreed in writing by both parties and must refer to the original Purchase Order number.

9 ORDER CANCELLATION

9.1 The Buyer shall have the right to cancel the Contract in respect of any standard stocked Goods or Services of the Seller at any time prior to delivery without incurring any charge. The Buyer shall have no further liability to the Seller in respect of the cancelled Contract or the cancelled part of the Contract, as applicable.

9.2 If the Buyer cancels the Contract for non-standard stocked Goods the Buyer shall reimburse the Seller's reasonable costs incurred directly from such cancellation (provided that the Seller shall take all reasonable steps to mitigate such costs). Any such reimbursement shall be the Seller's sole and exclusive remedy in respect of the cancellation and the Buyer shall have no further liability to the Seller in respect of the cancelled Contract or the cancelled part of the Contract, as applicable.

9.3 The Buyer may terminate the Contract or any part of it immediately by giving notice in writing to the Seller if the Seller fails to supply the Goods and/or perform the Services by the date and time for delivery set out at Clause 5, or the Buyer reasonably believes at any time that the Seller will not supply the Goods or Services by the date and time for delivery set out at Clause 5, and the Buyer shall have no further liability to the Seller following cancellation of the Contract for these reasons.

10 LIABILITY

10.1 Without prejudice to any other Buyer right or remedy under the Contract, if the Seller fails to provide the Goods and/or Services and/or Deliverables or any part thereof in accordance with the terms of the Contract the Seller shall indemnify the Buyer in respect of the cost to the Buyer of obtaining the Goods and/or Services and/or Deliverables or the relevant part thereof from an alternative source and any additional costs incurred by the Buyer as a result of the disruption and any other consequences of the failure or delay.

10.2 The Buyer may set off any amount it owes to the Seller against any amount due or payable by the Seller to the Buyer whether or not either liability arises under the Contract.

10.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Seller.

10.4 All liabilities of insurance, misconduct, malpractice (if applicable) will fall to the seller.

10.5 The aggregate liability of the Buyer under this Contract shall in no event exceed the value of all payments by the Buyer to the Seller under this Contract.

10.6 The buyer shall not be liable for any claims, liabilities, losses, damages, costs or expenses incurred by the end Client, seller or any third party or arising as a result of this Contract or arising in connection with any act, omission or neglect on the part of the Contractor or the Personnel in performing or in connection with the execution of the Services, whether direct, indirect or consequential, including, but without limitation, any economic loss, loss of turnover, profits, business or goodwill.

11 PRE-EMPLOYMENT SCREENING

The Seller shall:

(a) verify and procure that each of its permitted sub- contractors (if any) verifies that each person engaged by it or on its behalf in respect of the performance of the Services satisfies the Screening Requirements prior to permitting any such person to be deployed towards the performance of the Services;

(b) confirm in writing to the Buyer and procure that each of its permitted sub-contractors (if any) confirms in writing to the Buyer prior to commencing performance of any part of the Services, and thereafter on the dates falling every six (6) calendar months after the date of this Contract or more frequently as may be notified by the Buyer to the Seller from time to time, that all persons engaged by it or on its behalf who are deployed towards the performance of the Services satisfy the Screening Requirements;

(c) only deploy and procure that each of its permitted sub- contractors (if any) only deploys persons towards the performance of the Services who satisfy the Screening Requirements; and

(d) promptly provide to the Buyer and procure that each of its permitted sub-contractors (if any) promptly provides to the Buyer all documentary evidence that the Buyer may reasonably request from time to time to allow the Buyer to verify that clauses 11(a) to 11(c) have been and are being complied with.



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12 ALCOHOL AND DRUGS POLICY

12.1 The Seller agrees that it shall and shall procure that its employees, officers, agents and sub-contractors shall comply with the terms of the Policy on Alcohol and Drugs.

13 INTELLECTUAL PROPERTY RIGHTS

13.1 In respect of the Goods and any goods that are transferred to the Buyer as part of the Services under this Agreement, including without limitation the Deliverables or any part of them, the Seller warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Buyer, it will have full and unrestricted rights to sell and transfer all such items to the Buyer.

13.2 The Seller assigns to the Buyer, with full title guarantee and free from all third party rights, all intellectual property rights in the products of the Services, including the Deliverables.

13.3 The Seller shall indemnify the Buyer against any and all liabilities, costs, expenses, damages and losses that the Buyer suffers or incurs directly or indirectly as a result of a claim that the Buyer's use and/or possession or the Seller's supply of the Goods and/or Services infringes any intellectual property rights alleged to belong to a third party.

14 DATA PROTECTION

14.1 The Seller agrees that it shall and shall procure that its employees, officers, agents and sub-contractors shall:

- (a) comply with the provisions of the Data Protection Legislation;
- (b) comply with the terms of the Data Protection Policy; and
- (c) not by any act or omission put the Buyer in breach of the Data Protection Legislation.

14.2 The Seller shall notify the Buyer as soon as it becomes aware of any breach, or potential breach of the Data Protection Legislation or the Data Protection Policy by the Seller, its employees, officers, agents and subcontractors.

14.3 The Seller shall indemnify the Buyer against any and all liabilities, costs, expenses, damages and losses that the Buyer suffers or incurs directly or indirectly as a result of the Seller's breach of the obligations in Clause 14.1.

15 ANTI-BRIBERY AND CORRUPTION

15.1 The Seller shall and shall procure that each of its employees, officers, agents and subcontractors shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (the "Anti-Bribery Legislation");
- (b) not engage in any activity, practice or conduct which would constitute an offence by it under the Anti-Bribery Legislation; and
- (c) promptly report to the Buyer any request or demand for any undue financial or other advantage of any kind received by the Seller in connection with the performance of this Contract.

15.2 The Seller shall indemnify the Buyer against any and all liabilities, costs, expenses, damages and losses that the Buyer suffers or incurs directly or indirectly as a result of the Seller's breach of the obligations in Clause 15.1

16 MODERN SLAVERY

16.1 In performing its obligations under the Agreement, the Seller shall and shall procure that each of its employees, officers, agents and subcontractors shall:

- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015, (the "Modern Slavery Legislation"); and
- (b) not engage in any activity, practice or conduct which would constitute an offence by it under the Modern Slavery Legislation; and

16.2 The Seller shall notify the Buyer as soon as it becomes aware of:

- (a) any breach, or potential breach of the Modern Slavery Legislation by the Seller, its employees, officers, agents and subcontractors, or
- (b) any actual or suspected slavery or human trafficking in a supply chain that has a connection with this Contract.

16.3 The Seller shall indemnify the Buyer against any and all liabilities, costs, expenses, damages and losses that the Buyer suffers or incurs directly or indirectly as a result of the Seller's breach of the obligations in Clause 16.1.



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17 SUPPLIER CODE OF CONDUCT

The Supplier shall comply, and shall ensure that its sub- contractors comply, with the Customer's Supplier Code of Conduct (as amended from time to time by the Customer) if applicable.

18 CONFIDENTIALITY

The provisions of this Contract shall remain confidential between the parties. Neither party shall without the other's written consent use any Confidential Information in any medium whatsoever (including but not limited to documents, disks, information stored electronically or transmitted orally) relating to the other's business affairs (save as is necessary to enable it to perform the Contract), or disclose it to any third party except to the disclosing party's own professional representatives or advisers and, in the case of the Buyer, other members of the Buyer's corporate group and any Governmental Authority on a confidential basis or as required by law.

19 INSURANCE

The Seller shall maintain in force, with a reputable insurance company all relevant insurances, including professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

20 NOTICES

20.1 Any notice or other communication to be given by one party to another under this Agreement shall (unless one party has by no less than 5 Business Days' notice to the other party specified another address) be given to that other party at the address set out in the Purchase Order.

20.2 Each notice or other communication to be given under this Agreement shall be given in writing in English and, unless otherwise provided, shall be made by hand or letter. Unless otherwise agreed, notice shall not be validly served by email, but this shall not prohibit the parties from corresponding by email.

20.3 Any notice or other communication given by any party shall be deemed to have been received:

- (a) in the case of a notice given by hand, at the time of day of actual delivery; and
- (b) if posted, by 10am on the second Business Day following the day on which it was despatched by first class mail postage prepaid, provided that a notice given in accordance with the above but received on a day which is not a Business Day or after normal business hours in the place of receipt shall be deemed to have been received on the next Business Day.

21 GENERAL

21.1 The Buyer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.

21.2 The Seller may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Buyer.

21.3 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.4 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part- provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

21.5 Any waiver by the Buyer of any term or condition of this Contract or of any breach by the Seller may be terminated by the Buyer at any time and shall not prevent the Buyer from enforcing any term of this Contract or from acting on that or any subsequent breach.

21.6 The failure or delay by any party in any one or more instances to exercise any right or to insist on the strict performance or observance of any one or more provision of this Agreement shall not operate as a waiver of, or preclude any further exercise or enforcement of, (as the case may be) or other exercise or enforcement by such party of that or any other right or provision.

21.7 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the



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parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

21.8 A person who is not a party to the Agreement shall not have any rights to enforce its terms.

21.9 The Buyer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

21.10 This Contract shall be governed by and construed in accordance with English law and shall be subject to the jurisdiction of the English courts

22 Engagement of Clients

22.1 If the seller (or any subsidiary or associated company of the seller (as defined in Section 736 of the Companies Act 1985 and Section 416 of the Income and Corporation Taxes Act 1988 respectively, or any statutory modification or re-enactment thereof)) wishes to engage or complete work for any end clients that services or items are being provided for via the buyer as defined in this agreement then the seller shall give the buyers company 6 months' written notice of its intention and before such employment, engagement or introduction will obtain the written consent of the Company and pay to the Company as sum equal to 10% of the gross value of the annual salary fees and/or other benefits (calculated by grossing-up the relevant amounts payable where the employment of engagement is far less than one year) payable to the relevant Contractor, Personnel or other person in respect of such employment or engagement.