

1.0 Definitions and Interpretation

- 1.1 The following definitions shall apply:
Buyer - G4S Secure Solutions (UK) Limited.
Supplier - The person or body with whom this Order is placed.
Customer - The person or body with whom the Buyer has entered into an agreement for goods and/or services.
Main Contract - The agreement between the Buyer and the Customer.
Order - The Subcontract for the Subcontract Works between the Buyer and the Supplier.
Subcontract Works - The supply of the goods and/or services stipulated in the Order.
Force Majeure - Any circumstances beyond the reasonable control of either party which prevents or impedes the due performance of the Subcontract by that party including: government action or trade embargo; flood, fire or other natural physical disaster; denial of the use of any railway, port, airport, shipping service or other means of public transport; or industrial dispute, other than solely confined to the Supplier and/or his sub-Suppliers or their employees.

2.0 General

- 2.1 This Order is subject to and the Supplier shall be deemed to have notice of and shall observe, perform, comply and be bound by all the provisions of this agreement so far as they relate to and are applicable to the Subcontract Works or any part thereof and the provisions of any tender documents issued by the Buyer and the conditions provided. If any conflict arises between the provisions of the Main Contract and the Order, the terms of the Order shall prevail.
- 2.2 The terms of the Main Contract are available for inspection by the Supplier, who will be deemed to have full notice of all terms included (except for conditions relating to rates and prices).
- 2.3 These terms shall govern the Subcontract between the Buyer and Supplier and shall prevail over any terms put forward by the Supplier unless expressly agreed to in writing by an authorised representative of the Buyer. The Buyer's conduct shall not constitute acceptance of any terms put forward by the Supplier.
- 2.4 Any forbearance granted or failure by the Buyer to enforce or require strict performance of the Order shall not operate as a waiver of any such rights which the Buyer may at any time enforce.
- 2.5 The Supplier will carry out his obligations under the Order so that the Buyer shall meet his own obligations under the Main Contract including, but not limited to, the giving of any necessary notices.
- 2.6 If any provisions of the Subcontract shall be prohibited by law or adjudged by a court to be unlawful, void or unenforceable, it shall to the extent required be severed from the Subcontract and rendered ineffective if possible without modifying the remaining provisions of the Subcontract and shall not in any way affect any other circumstances of or validity or enforceability of the Subcontract. In the event of any such severance the parties hereto shall amend that provision in such reasonable manner as achieves the intentions of the parties hereto without illegality.

3.0 Contract Period

- 3.1 The programme for the Subcontract Works is stipulated in the Order. The Buyer reserves the right to advance or retard dates to suit site progress.
- 3.2 The period for completion of the Subcontract Works may be extended by the Buyer for a reasonable period either, if delay is caused to the Subcontract Works for any reason which enables the Buyer to obtain an extension of time for completion of the Main Contract works or where delay is caused by the default of the Buyer provided that the Supplier shall have notified the Buyer in writing immediately upon it becoming reasonably apparent that the progress of the Subcontract Works is delayed. In the event that such notice of a delay is not advised by the Supplier to the Buyer within 14 days of the date from which the Supplier knew, or ought to have known, of the delaying event, the Supplier will not be entitled to an extension of time for performance, or any related claim for loss and expense.
- 3.3 If the Supplier fails to complete the Subcontract Works or any section thereof within the period specified or any extended period or periods as hereinafter provided, he shall pay or allow to the Buyer a sum equivalent to any loss or damage suffered or incurred by the Buyer and caused by the failure of the Supplier as aforesaid. The Buyer shall at the earliest opportunity give reasonable notice to the Supplier that the loss or damage as aforesaid is being or has been suffered or incurred.

4.0 Time for Performance

- 4.1 Time shall be of the essence in the provision of goods and/or services.
- 4.2 The Supplier will strictly observe the Programme of Works or Delivery Schedules issued by the Buyer from time to time or of which the Supplier has notice.
- 4.3 Failure by the Supplier to observe this condition shall entitle the Buyer to liquidated damages of not less than 1.5% of the Contract Price per week or part week up to a maximum of 20% of the Contract Price without prejudice to any other rights under this Subcontract.

5.0 The Supplier undertakes:-

- 5.1 Upon receipt of notice, which unless expressly withheld in the Order is hereby given, to proceed with due diligence and complete the Subcontract Works within the period for completion stated in the Order and reasonably in accordance with the progress of the Main Contract works subject to any extension of this period, and any reasonable directions by the Buyer.
- 5.2 That all goods and/or services supplied will be free of all defects in design, quality and construction, be of sound materials and workmanship, be capable of the necessary standards of performance, conform with all legal requirements and be fit for purpose. This condition will apply for a period of 18 months following delivery, or 12 months following commissioning (if carried out by the Supplier) or handover to the Customer whichever is later. This condition shall be in addition to any conditions or warranties required by statute or common law whether express or implied.
- 5.3 To use only the best quality materials and employ competent trained persons in the supply of goods and/or services.
- 5.4 To comply with the relevant British Standards for supply and installation, ruling at the time of performance.
- 5.5 That all defects in the Subcontract Works shall be made good by the Supplier within 7 days after receipt by him of notice in writing from the Buyer.
- 5.6 To keep confidential all information of the Buyer or the Customer received or acquired during the performance of the Order and not to use any information at any time whether during or after performance of the Order.
- 5.7 That all specification, samples, drawings, software and other material prepared in connection with the Order shall become the property of the Buyer from acceptance of the Order.
- 5.8 To ascertain, comply with and observe all requirements of law in relation to the supply of goods and/or services and all safety requirements and (where applicable) site regulations of the Buyer or the Customer.
- 5.9 To indemnify the Buyer in full for any breaches of the Main Contract and any damage, loss and/or expense arising from such a breach insofar as the breaches relate to the performance of the Subcontract Works.
- 5.10 That all persons engaged in the execution of the Subcontract Works shall be his direct employees and hereby indemnifies the Buyer against all or any liability for deduction and payment to the proper authority of income tax deductions; and all regular payments required under National Insurance and Graduated Pensions and similar regulations; and all or any similar payment of requirements under any statute, law, bylaw or agreement, or future enactment relative to any person employed by the Supplier and further indemnifies the Buyer from and undertakes to make all payments in respect of any relevant legislation whatsoever, applicable to, during and arising out of the Subcontract Works: all of which shall be the sole and entire responsibility of the Supplier.
- 5.11 That he has exercised and will exercise all reasonable skill and care in:
- (i) the design of the Subcontract Works insofar as the Subcontract Works have been or will be designed by the Supplier;
 - (ii) the selection of materials and goods for the Subcontract Works insofar as such materials and goods have been or will be selected by the Supplier;
 - (iii) the satisfaction of any performance specification or requirement insofar as such performance specification or requirement is included or referred to in the description of the Subcontract Works included in or annexed to the tender or the Subcontract documents and/or specification.

6.0 Delivery

- 6.1 Delivery of goods and/or services shall be made by the Supplier to the address stated on the Order with reasonable notice being given to the Buyer of the time that delivery will be made.
- 6.2 Property in goods and/or services will pass to the Buyer on delivery without prejudice to any right of rejection.
- 6.3 The Supplier shall be responsible for the unloading, taking to store and adequate protection of all materials delivered to site until completion.
- 6.4 The Buyer will have the right to inspect goods at the premises of the Supplier at any time from commencement of manufacture to delivery.

7.0 Force Majeure

- 7.1 If either party is prevented or hindered from carrying out its obligations hereunder by Force Majeure, then the performance of such obligations shall be suspended for such time as the Force Majeure circumstances last and the parties affected shall not be liable for any loss or damage caused to the other by delay, but shall, however, resume performance of the suspended obligations as soon as the Force Majeure circumstances cease to exist unless the Subcontract has prior thereto been terminated by the Buyer pursuant to sub-clause 7.2 of this clause.
- 7.2 In the case of the Force Majeure extending beyond a reasonable time (which term for the purpose of this Subcontract shall in any event include any period in excess of sixty days) the Buyer may by notice in writing to the Supplier terminate the Subcontract, with no liability on either party for loss or damage thereby occasioned.

8.0 Insurance

- 8.1 The Supplier will effect and maintain Employers Liability Insurance and Legal Liability Insurance in respect of its responsibilities under the Order of at least £5 Million and will produce evidence of such insurance upon request from the Buyer.
- 8.2 The Supplier shall indemnify the Buyer in full against all liability, loss or damage (including costs, expense and legal expenses) to persons or property, real or personal, arising out of the carrying out of the Subcontract Works and shall maintain and keep in force adequate insurance to cover total claims or proceedings arising out of such loss or damage.
- 8.3 The Supplier shall indemnify the Buyer in full against all liability for injury to workmen on the site whether employed by the Supplier or by others, and shall maintain and keep in force adequate insurance to cover total claims or proceedings arising out of such injury.
- 8.4 Should the Supplier fail to, or be unable to produce satisfactory evidence of the adequacy of his insurance cover, the Buyer shall have the right to effect the necessary insurance and deduct the cost of such insurance from monies which might otherwise be or become payable to the Supplier.
- 8.5 The Supplier shall indemnify the Buyer against any liability incurred by the Buyer to the Customer or any third party arising from any breach of these conditions.

9.0 Payment

- 9.1 The prices stated in the Order are fixed for the duration of the Subcontract Works and are inclusive of all duties, levies and taxes except VAT.
- 9.2 The Supplier shall submit an application for payment monthly in arrears by the dates indicated in the schedule issued by the Buyer, or where no schedule is issued, at the end of each calendar month. Subject to an application being made and received by the Buyer, payment will be made 30 days thereafter (the "final" date for payment). The Buyer shall advise the Supplier by the 15th day after the date of receipt of the application of the amount due to be paid (the "due" date). In the event of a supply only Subcontract, payment will be made to the Supplier 60 days after receipt of a valid invoice, accepted as such by the Buyer.
- 9.3 The Buyer may withhold payment after the "final" date for payment provided that the Buyer shall notify the Supplier of the amount to be withheld and the grounds for withholding not later than 2 days before the "final" date for payment.
- 9.4 The price of the Subcontract Works payable to the Supplier (hereinafter referred to as the "Contract Price") shall be the sum named or such sum as shall become payable by reason of the Buyer's written instructions. If as a result of the Buyer's written instructions, the specification or quantities are varied and/or other material, equipment, goods and/or services are substituted for those specified therein to enable the Buyer to comply with the requirements of the Subcontract, then adjustment shall be made to the Contract Price. Such adjustment shall be ascertained by the Buyer in accordance with the following rules:
- (i) Where work is of similar character to that set out in the schedule of rates, the rates and prices so set out shall determine the valuation.
 - (ii) Where work is of similar character to that set out in the schedule of rates, but executed under different conditions, the rates and prices so set out shall be the basis of determining the valuation, and the valuation shall include a fair allowance for such difference in conditions.
 - (iii) Where the work is not of a similar character to work set out in the schedule of rates, the work shall be valued at fair and reasonable rates and prices.

10.0 Assignment

- 10.1 This Order in its entirety and each and every provision thereof shall inure to the benefit of the successors, assigns and subsidiary and associated companies of the Buyer.
- 10.2 The Supplier may not assign or Subcontract any rights or obligations under the Order without the written consent of the Buyer.

11.0 Termination

- 11.1 If either party shall have a Receiver or Administrator appointed or go into liquidation or have a receiving order made or make a composition with its creditors then the other party may terminate the Order forthwith on notice to the other party without prejudice to any other rights of either party.
- 11.2 If the Customer becomes the subject of, or is affected by, an event of insolvency, the Buyer shall only be liable to pay the Supplier to the extent that the Buyer is able to recover monies due under the Main Contract which relate to the Subcontract Works.
- 11.3 If the Supplier fails to comply with any term of the Order then the Buyer may, with 7 days written notice, do one or more of the following:
- (i) Reject the goods and/or services by notice in writing.
 - (ii) Return the goods to the Supplier at the expense of the Supplier.
 - (iii) Allow the Supplier to remedy the breach.
 - (iv) Refuse to accept any further goods and/or services, without liability to the Buyer.
 - (v) Rescind the Order.
- 11.4 This Order may be varied or cancelled at any time by the Buyer giving the Supplier notice in writing. A fair and reasonable price shall then be paid for all work in progress at the time of cancellation and subsequently received by the Buyer. The Buyer shall thereafter not be liable for any loss to the Supplier including consequential loss.
- 11.5 In the event of determination of the employment of the Buyer under the Main Contract then the employment of the Supplier shall automatically be determined. Upon such determination the Supplier shall be entitled to such sums as are recoverable under the provisions of the Main Contract so far as applicable to this Subcontract.
- 11.6 The Buyer has the right to determine the employment of the Supplier due to breach of contract by the Supplier.

12.0 Health & Safety

- 12.1 The Supplier shall comply with all applicable health and safety and environmental legislation, regulations and directives. This shall include compliance with CDM Regulations and/or the directions of the Planning Supervisor.
- 12.2 The Supplier shall keep the work area clean and safe at all times. All recommendations of the Buyer's safety manager are to be complied with.
- 12.3 It is a condition of the Order that the Supplier advises the Buyer of any COSHH implications of the goods and/or services being provided, these may be defined on the delivery note, product or other documentation.

13.0 Disputes

- 13.1 If a dispute is not resolved through negotiation, the parties agree to attempt in good faith to resolve the dispute through mediation prior to referring any dispute to adjudication.
- 13.2 Either party may give notice of its intention to refer any dispute arising under, out of or in connection with this Subcontract to adjudication at any time in accordance with the Housing Grants, Construction and Regeneration Act 1996 and the scheme for Construction Contracts 1998. The referring party shall seek the appointment of an adjudicator from the President or Vice President of the Royal Institution of Chartered Surveyors. Any decision made under adjudication is binding on the parties until the dispute is finally decided by arbitration, litigation or agreement between the parties.
- 13.3 Should either party consider the adjudicator's decision unsatisfactory, the dispute shall, after written notice, be referred to arbitration by a single person to be agreed. Should agreement not be reached within 14 days of written notice to concur, a person shall be appointed by the President or Vice President for the time being of the Chartered Institute of Arbitrators; provided that:
- (i) no such reference shall take place before completion or abandonment of the Main Contract works;
 - (ii) if the dispute or difference is substantially the same or is connected with a dispute or difference that has arisen under the Main Contract the Buyer may by notice in writing require that the matter is to be dealt with jointly with the difference under the Main Contract. In such a case the Supplier shall be bound in like manner as the Buyer by any award by an arbitrator.

14.0 Jurisdiction

- 14.1 This Order is subject to English Law and the parties hereto submit to the jurisdiction of the English Courts.
- 14.2 The Contracts (Rights of Third Parties) Act 1999 does not apply to this Subcontract.