

Purchase Order General Terms & Conditions

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DOCUMENT PREPARATION AND REVIEW (Rev 1)

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DOCUMENT REVISION HISTORY

Revision	C.M. No.	Description	Reviewed by	Approved By	Date
1	65	Review	Declan Denn	Fintan McCleane	2/2/23

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PURCHASE ORDER GENERAL TERMS AND CONDITIONS

Definitions

“Company” means the Suir Engineering group company referenced in the heading of the Purchase Order.

“Contract” means the agreement between the Supplier and the Company comprising the Purchase Order and the documents referred to therein and these Purchase Order General Terms and Conditions.

“Delivery” means delivery of the Quantity of Goods or performance of the Services as directed in the Purchase Order (and “Delivered” shall be construed accordingly).

“Employer” means the employer in the contract between the Company and the employer (whether the Company is acting as a main contractor, sub-contractor or otherwise under the Main Contract).

“Goods” means the goods to be supplied in accordance with the Contract.

“Import Taxes” means the relevant import duty, customs duties, VAT, trade tariffs and other related costs associated with the international carriage of Goods.

“Law” means any law, regulation, enactment (as may be amended, updated, repealed, or replaced from time to time) or decision of the courts in any jurisdiction.

“Main Contract” means the contract between the Company and its Employer (whether the Company is acting as a main contractor, sub-contractor or otherwise under the Main Contract).

“Purchase Order” means an instruction by the Company to the Supplier to supply Goods or Services as therein directed in accordance with the Contract.

“Purchase Order General Terms and Conditions” means these standard conditions of purchase which form part of the Purchase Contract.

“Quantity” means the quantity as stated in the Purchase Order (which is subject to change by agreement between the Company and the Supplier) (and “Quantities” shall be construed accordingly).

“Services” means the services to be supplied or works to be carried out in accordance with the Contract.

“Specification” means the description and/or the performance criteria of the Goods or the Services to be supplied under the Contract.

“Supplier” means the person, firm, partnership, or company to whom the Company have issued a Purchase Order.

1.0 Applicability

- 1.1** These Purchase Order General Terms and Conditions apply to all enquiries, offers, contracts and the obligations arising from them, by means of which the companies affiliated to Suir Engineering Ltd., to be referred to hereafter as the “Company”, obtain Goods and/or Services from a third party, to be referred to hereinafter as the “Supplier” or issue the Supplier with (other) instructions, the foregoing to be understood in the widest sense. Goods are defined as tangible objects and property rights.
- 1.2** Departure from the provisions of these general purchase conditions is valid if and insofar as the Company has expressly accepted the departure in writing.

2.0 Tenders, Purchase Orders and Contract Conclusion/Cancellation

- 2.1** An enquiry for a tender does not bind the Company and counts as an invitation to submit a tender. By submitting a tender, the Supplier undertakes, in relation to the Company, to perform that described in the tender for a fixed total price or a fixed settlement price or variation thereof within the term set for the performance of the contracted activities. The tender will remain valid for a period of sixty calendar days. Any costs associated with the submission of the tender will not be reimbursed by the Company.
- 2.2** In the event of manifest errors or inconsistencies between the components of an enquiry for a tender, the Supplier shall consult with the Company prior to submitting the tender.
- 2.3** The Company is not obliged to award a given contract to the party quoting the lowest price, nor is it obliged to provide any information regarding whether or not the contract concerned will be awarded to the Supplier. Documentation provided by the Company to the Supplier for the purpose of submitting tender must be returned to the Company should no contract come into being.
- 2.4** A Contract comes into being if and insofar as the Company, accepts a tender by means of a written Purchase Order.
- 2.5** If a Supplier has not yet commenced with the implementation of a given contract, the Company is entitled to cancel the Contract concerned at any time without judicial intervention. In that case, the Company will reimburse the Supplier for all actual expenses substantiated by written proof insofar as these are reasonable. The reimbursement of consequential damages is excluded. If the Supplier commences the contracted activities without having received a Purchase Order from the Company, it does this at its own expense and risk.

3.0 Performance of Contracted Activities

- 3.1** Apart from requirements resulting from any applicable Law, the contracted activities to be performed by the Supplier must comply with:
- a) The description and/or the Specification supplied by the Company;
 - b) Reasonable expectations that the Company may have regarding matters such as characteristics and/or quality and/or reliability described in documents such as these conditions and the tender;
 - c) those requirements that can be reasonably made from the point of view of safety, health, welfare and the environment, including those laid down by Law;

- d) The requirements and standards of sound workmanship that hold good in the branch of industry concerned;
- e) The time schedule and/or implementation schedule presented or approved by the Company. The requirement that the quality of the materials used, raw and otherwise, be that agreed on, and that the tools and the equipment used meet the most stringent requirements;
- f) The requirement that the personnel to be employed by the Supplier are suitable for the tasks at hand;
- g) The requirement that the contracted activities to be performed by the Supplier include all applications for permits that are needed to implement the Contract concerned; and
- h) The requirement that the drawings and other preparatory work and/or development.

Activities carried out in order to implement the Contract concerned are included in the activities to be performed by the Supplier.

- 3.2** Delivery takes place under the most recently published set of incoterms on the basis of a DDP version of that agreement unless otherwise agreed. If no incoterms apply, Delivery will be to the site as indicated by the Company. The Supplier is bound to inform the Company adequately and in good time if the terms of Delivery will be exceeded. Part deliveries or deliveries that take place more than fourteen days after the agreed term require prior written consent from the Company the Supplier is bound, at the Company's request, to supply the Company with a production or implementation schedule and/or to render assistance to the Company should it want to check the progress being made. Delivery is only considered to have taken place if that which has been agreed on has, in compliance with the Contract concerned, been completely delivered to or transformed at the site indicated by the Company.

4.0 Terms

- 4.1** Exceeding the agreed implementation/Delivery terms with respect to (parts of) the contracted activities to be performed by the Supplier results in the forfeiture of rights, which means that the Supplier is in default without further notice.
- 4.2** The Supplier owes the Company an immediately payable penalty of 0.5% of the agreed total price for every calendar day that the term referred to is exceeded, up to a maximum of 10% of the value of the Purchase Order. The foregoing is supplementary to the Company's right to claim damages should there be a reason to do so.
- 4.3** The Contract, including any documents expressly incorporated or referred to in the Contract or on the face of the Purchase Order, constitutes the entire agreement between the Company and the Supplier and supersedes all prior negotiations, discussions, correspondence, agreements or arrangements whether written or oral. Any conditions, exclusions or limitations of liability sought to be imposed by warranties, guarantees, delivery notes or any other document provided by the Supplier shall be deemed to be excluded and inapplicable.
- 4.4** The Supplier shall be deemed to have full knowledge of the provisions of the Main Contract and full knowledge of documents referred to therein.

5.0 Invoicing and Payment

- 5.1** Unless otherwise agreed in writing, the Supplier will not send an invoice for the amounts owed by the Company sooner than the date of the Delivery of the Goods or, where appropriate, the date on which the Company accepts the Supplier's performance of the contracted activities. If the Contract concerned has been implemented correctly and completely, the Company will pay the amount invoiced in respect of this matter within sixty days after receiving and accepting the invoice. Payment does not imply acceptance and does not discharge the Supplier of any obligation it is bound to fulfil in relation to the Company.
- 5.2** The Supplier agrees that the Company may set off against any sums due to the Supplier under this Contract for any amounts due to the Company from the Supplier under any other contracts and for any loss and/or expense and/or damages incurred or likely to be incurred by the Company arising from breaches of contract between the Company and the Supplier either in respect of this Contract or any other contract between the parties.
- 5.3** Without prejudice to the foregoing, invoices must be received by the Company within 10 days of the end of the month in which the Goods or Services to which they relate are delivered or performed otherwise they will be deemed to relate to Goods or Services delivered or performed in the following month. All invoices shall be made net of any retention and discounts as specified in the Purchase Order.
- 5.4** The Company shall be under no obligation to make any final payment and/or return of retention to the Supplier until such time as the Supplier provides the Company with any operation and maintenance manuals, health and safety documentation, any documents related to product warranties and/or any other documents reasonably required by the Company.
- 5.5** If the Employer (or similarly titled party) under the Main Contract becomes insolvent and thereby fails to make payment to the Company for any Goods or Services provided under the Main Contract, which Goods or Services have been provided by the Supplier under this Contract, then the Company shall have no obligation to make payment to the Supplier in respect of the Goods or Services for which payment has not been made under the Main Contract.
- 5.6** Retention, if any, shall be deducted at the rate stated in the Purchase Order.

6.0 Obligation to Provide Information

- 6.1** The Supplier will immediately inform the Company, in writing, of every circumstance that might affect, or hinder fulfilment of the Contract concerned. The Company will, at the expense of the Supplier where appropriate, have the right to take all actions that it considers necessary or that are reasonable in view of its interests, and/or demand an amendment of the Contract concerned or dissolve the Contract concerned without judicial intervention, whether this is a result of such information or because the Company has reasonable grounds for suspecting such a circumstance.

7.0 Failure to Perform

7.1 Every failure by the Supplier to fulfil its obligations (that is, non-compliance of the Contracted activities performed by the Supplier with the requirements listed in clause 3, as well as exceeding of the terms as referred to in clause 4) entitles the Company to unilaterally dissolve the Contract concerned, either wholly or in part, without further notice or judicial intervention by means of written notification to the Supplier and/or suspend payment obligations and/or assign implementation of all or part of the Contract concerned to third parties, without the Company being liable for any damages and without prejudice to any other rights accruing to the Company, including the Company's right to full compensation for damages.

8.0 Suspension

8.1 Company is at all times authorised to suspend the Contract concerned, either wholly or in part and oblige the Supplier to cease implementation of the Contract concerned for the duration of the term to be stipulated by the Company. Apart from cases in which the suspension where appropriate, the cessation of activities can be attributed to the failure of the Supplier to fulfil its obligations, the Company will, where opportune, reimburse the Supplier for damages, consisting of direct costs that the Supplier can demonstrate it has actually made, insofar as these are reasonable. Further compensation for damages is excluded.

8.2 The Supplier is obliged to mitigate the damages resulting from such suspension by taking appropriate measures.

8.3 Any additional measures which the Supplier has to take as a consequence of suspension will be settled by means of a Variation to the works unless the suspension is attributable to any default on the part of the Supplier.

9.0 Termination of a Contract

9.1 In addition to the provisions of clause 7, the Company is authorised to immediately dissolve (without further notice) the Contract concerned without judicial intervention in each of the following cases:

- a) If the Supplier or the person who has put himself forward as a guarantor for the Supplier's obligations or has furnished security, applies for a temporary moratorium, is declared to be in a state of bankruptcy, voluntarily or involuntarily goes into a process of winding-up, ceases operating activities, or takes a decision to cease winding-up or apply for bankruptcy or moratorium;
- b) If a change occurs in respect of the shareholders of the Supplier, insofar as this circumstance entails a considerable increase in risk according to the Company's judgement; or
- c) If the Supplier assets are threatened with judicial measures.

Without prejudice to any other right to terminate this Contract which the Company may possess, the Company may, at its sole discretion terminate this Contract by giving written notice of termination to the Supplier.

If the Supplier is in breach of any of the terms of this Contract the Company may terminate the Contract by giving written notice of termination to the Supplier. In the event of such termination the Company shall be entitled to recover from the Supplier the amount of any resultant loss, damage or expense incurred by the Company which the Company would not have incurred had this Contract been duly performed in full.

10.0 Industrial Property Rights: Rights to Drawings, Design, etc.

- 10.1** The Supplier guarantees that the performance of the Contracted activities and the normal use of their results, in the widest sense, will not infringe on any patents, copyrights, trademark rights or other exclusive rights of any third party, and the Supplier will indemnify the Company against, and assure the Company of full compensation for, all claims in respect hereof as well as the costs the Company incurs defending itself.
- 10.2** The Supplier shall use all drawings and documents only for the purpose of the Contract and shall return them carriage paid to the Company on the Company's request at any time or if no request is made on completion of the Contract.
- 10.3** The Supplier shall be responsible for any errors or omissions in the drawings, calculations or particulars supplied by it whether or not such information has been approved by the Company.
- 10.4** The Supplier grants to the Company an irrevocable royalty free licence to copy and use such drawings, calculations or documents for all purposes relating to or connected to the Main Contract and any project associated with it. Such licence shall carry the right to grant sub- licences and be freely transferrable to third parties.
- 10.5** Insofar as ownership of any copyright in the Goods and any drawings, calculations or documents contained within them is vested in any person other than the Supplier, the Supplier will procure that the Company has the full benefit of a licence in the terms otherwise required by clause 10.4.

11.0 Secrecy/Confidentiality

- 11.1** The Supplier will maintain secrecy with respect to the existence and contents of the Contract concerned, as well as all know-how and data, that it gains knowledge of in the context of implementing the Contract concerned and will bind third parties involved in implementing the Contract concerned to observance of similar secrecy in writing.
- 11.2** All records in any medium including accounts, documents, drawings and other papers including private notes concerning the Company and all copies and extracts made or acquired by the Supplier in the course of the Contract are the property of the Company and the Supplier uses them only for the purpose of the Company and returns them to the Company on demand at any time and without demand on the termination of the Contract.

12.0 Transfer and Third Parties

- 12.1** The Supplier is not permitted to transfer the Contract concerned or rights and obligations arising by virtue thereof to third parties, or have them fulfilled by third parties, without explicit, prior written consent from the Company's entitled to attach conditions to its consent.
- 12.2** In emergency cases and, in addition, if it can be reasonably concluded after consultation with the Supplier that it cannot or, where appropriate, will not be able to fulfil its obligations arising by virtue of the Contract concerned, or do so in time or properly, the Company is authorised to demand that the Supplier subcontracts the implementation, wholly or in part, at the Supplier's own expense and risk. The foregoing does not discharge the Supplier from its obligations arising by virtue of the Contract.

12.3 The Supplier will be responsible to the Company for the actions of subcontractors and third parties it employs as it would be for its own actions or negligence. The Supplier guarantees that such subcontractors and third parties will observe the provisions of these general purchase conditions, as well as all other regulations and stipulations that the Company declares applicable in respect of the activities to be performed. The Supplier guarantees that the Company will also be able to exercise its powers arising by virtue thereof in relation to subcontractors and third party.

13.0 Liability

13.1 The Supplier is liable for and will indemnify the Company against all claims pertaining to damages resulting directly or indirectly from non-compliance or improper compliance, with the Contract concerned, or from the breach of any other contractual or non-contractual obligation to the Company or third parties.

13.2 For the purpose of this clause, the term 'third party' also includes the Company personnel, third parties directly or indirectly employed by the Company, and the personnel of such third parties.

13.3 The Company may not commence any legal action against the Supplier under the Purchase Order after twelve (12) years from the date on which all the Goods are finally delivered and/or all of the Services are concluded.

14.0 Insurances

14.1 The Supplier is obliged, at its own expense, to insure itself and keep itself insured against its liability in the widest sense of the word – vis-à-vis the Company and third parties (including, but not restricted to professional liability, product liability, and third-party risk). The Supplier will present the policy concerned for inspection when requested to do so by the Company in this regard, the Company is not obliged to inspect the policy. The Company will verify insurances are adequate.

15.0 Law and Jurisdiction

15.1 Both the Contract and these terms of conditions shall be governed by Irish Law and both the Company and the Supplier consent to the exclusive jurisdiction of the Irish courts in all matters regarding them.

SPECIAL CONDITIONS REGARDING THE DELIVERY OF GOODS

16.0 Quality and Description of Goods to be Delivered

16.1 The Goods to be delivered must:

- a) Be in compliance with that stated in the Contract concerned with respect to Quantity, description and quality.
- b) Be in accordance with and satisfy the Specifications stated to be applicable in all respects.
- c) Be accompanied by the necessary instructions to the Company or, where appropriate, its personnel, in order to enable the Company or, where appropriate, its personnel to independently use the delivered goods.

16.2 Insofar as the Goods to be delivered include products:

- a) The products must be manufactured from sound, new materials and be properly constructed.
- b) The products must be suited to the purpose for which they are intended.
- c) The products must be fabricated using parts of raw materials of traceable origin.
- d) The products must not contain asbestos or other carcinogenic substances or be otherwise dangerous to health.
- e) The necessary documents, such as packing lists, guarantee or quality certificates, attestations, drawings, instruction manuals, spare parts list maintenance instructions, data, Specification sheets and factory acceptance tests as required must be supplied to the Company on request or together with the Goods concerned on Delivery. Test and commissioning documentation must be supplied immediately on completion. Failure to do so and at the discretion of the Company will result in payment being withheld. In view of the Company's environmental policy PDF or disc format of information is requested for all of the above documentation. See clause 5 [Invoicing and Payment].
- f) The design, composition and quality of the products must satisfy all appropriate Statutory Requirements, Regulations and European Guidelines (including CE Markings).
- g) The products must be provided with type, series and device numbers and an indication of origin in the form of adequate markings made by the manufacture or importer, or, if this is not possible, the packaging of the delivered goods will be provided with such markings.
- h) The invoices concerned will be sent to the Company in duplicate together with the Goods concerned on Delivery, and, apart from the date, invoice number and order number, they must also specify the name of the manufacturer and the importer, and the type, series and device numbers.
- i) If any Goods supplied shall be found to be defective or unfit for the purpose for which they were intended in any respect within 24 months of Delivery then the Company may call upon the Supplier (but without prejudice to the Company's other contractual or common law rights) promptly to replace the Goods or effect site repairs (replacement or repair being at the Company's option) at the Supplier's own expense.

16.3 Where any Goods and / or materials, manufactured for the Company's benefit are stored prior to Delivery by the Supplier, the Supplier shall include any costs of storage and protection within the Price and ensure that they are kept apart from all other Goods and that they are properly packaged.

16.4 Time is of the essence under this Contract unless otherwise agreed.

- 16.5** Where the Supplier indicates by its actions, inactions or otherwise that it is unable to comply with the Delivery Schedule and/or is unable to effect Delivery of all Goods or all Services within the supply period, the Company, at its absolute discretion, has the right to obtain goods or services from other sources if necessary and practicable in order to maintain progress on the works upon which the Company is engaged and the Company shall have no liability for payment or otherwise in respect of the Goods or the Services ordered but not delivered.
- 16.6** The Goods shall be delivered in accordance with the most recently published set of Incoterms on the basis of a DDP version of that agreement unless otherwise agreed. For the avoidance of doubt, title in the Goods only will pass to the Company and not risk.
- 16.7** Any non-recoverable Import Taxes incurred by the Company arising out of or in connection with the failure by the Supplier to deliver on the basis of “DDP” shall be owed by the Supplier to the Company and may be deducted from sums otherwise owed to the Supplier.
- 16.8** Nothing in this clause shall absolve the Supplier from any liability for damage or loss caused to the Company as a result of the Supplier’s inability to deliver the Goods or Services in accordance with the Contract. The Supplier is obliged to notify the Company in writing if it knows or ought to know, or has or ought to have a reasonable belief, that it will be delayed for any reason. Failure to so notify shall constitute a material breach.

17.0 Inspection and Testing

- 17.1** The Company reserves the right to examine and check the production or assembly of the contracted Goods, or have it examined. Inspection or testing does not discharge the Supplier of any guarantee or other obligation arising by virtue of the Contract concerned.

18.0 Changes and Variations in Work Carried Out

- 18.1** The Company is at all times authorised to demand that the Quantity and/or quality of the Goods to be delivered be changed. The Company is authorised to make modifications to the drawings, models, instructions, Specifications, etc., that relate to the Goods to be delivered.
- 18.2** If in the opinion of the Supplier, the foregoing will have a consequence for the fixed price and Delivery term agreed on, the Supplier will, prior to implementing the change, inform the Company of this in writing as soon as possible, but no later than within eight calendar days after it has been informed of the change concerned. If, in the opinion of the Company, the consequences for the price and/or Delivery term are unreasonable, the Company is entitled to dissolve the Contract concerned by means of written notice to the Supplier, unless this would be unreasonable in view of circumstances. Dissolution in pursuance of this paragraph does not entitle either of the parties to claim compensation for any damage whatsoever.
- 18.3** The Supplier shall comply with all written instructions of the Company including but not limited to instructions requiring a variation to the Goods or Services to be supplied under the Contract. Variations arising from written instructions of the Company shall be valued by the Company on a fair and reasonable basis taking due account of any rates and prices specified in the Purchase Order. The Supplier shall not be entitled to make any claims or to any additional payment for compliance with oral instructions.

19.0 Transfer of Property and Risk

- 19.1** The risk involved with the Goods to be delivered is not transferred from the Supplier to the Company until Delivery has taken place. The Company does not become the owner of the Goods until the moment of actual Delivery. The Supplier guarantees the ownership it transfers is full and unencumbered.
- 19.2** The repair, treatment or processing of products that the Company gives to the Supplier for that purpose is at the risk of the latter during the period of repair, treatment or processing.

20.0 Price

- 20.1** The Price agreed on is binding and can never be increased as a consequence of changes in exchange rates, purchase prices, freight charges, import and export duties, excises, levies, taxes, raw materials or semi-finished Goods, wages and other amounts that the Supplier owes to third parties.
- 20.2** The Price includes:
- a) Import duties, excises, levies and taxes (with the exception of value added tax);
 - b) All levies or costs in respect of applications for permits for production;
 - c) The costs of the instructions to be given by the Supplier to the Company or, where appropriate, its personnel;
 - d) Compensation for the use of intellectual property rights as referred to in clause 10;
 - e) All costs associated with or resulting from the performance of the activities referred to in clause 3;
 - f) All other costs that are to be borne by the Supplier according to or by virtue of the Contract concerned or these general purchase terms; and
 - g) Everything necessary for the proper implementation of the Contract concerned in observance of the prevailing standards, regulations and requirements regarding sound workmanship, even if the foregoing is not mentioned explicitly in the Contract concerned.

21.0 Guarantee

- 21.1** The Supplier guarantees that the delivered Goods will meet the requirements of clauses 3 and 16 in all respects.
- 21.2** If, after accepting the delivered Goods, the Company informs the Supplier in writing of any shortcoming therein within the guarantee period specified in the Contract concerned, the Supplier is obliged to immediately repair the shortcoming free of charge, unless the Supplier demonstrates that the shortcoming has been caused by incorrect or inexperienced use. If in the Company's reasonable opinion, the repair of the shortcoming as referred to hereinbefore requires the replacement of parts of the delivered Goods or, where appropriate, products, the Supplier is obliged to replace those parts.
- 21.3** In the event of a shortcoming, the Company is authorised to return the Goods concerned or part thereof to the Supplier at the risk and expense of the latter, unless the parties have agreed that the necessary replacement or repair will be carried out on the Company's working premises at the expense of the Supplier.

- 21.4** If the Supplier continues to be in default with respect to the fulfilment of those of its obligations referred to in this clause, the Company is entitled to make the replacement or repairs referred to, or to have them made, at the cost of the Supplier and without further warning, in emergencies and in the event that it is unable to contact the Supplier.
- 21.5** As concerns the replacement or repair of the delivered Goods, the agreed guarantee period starts anew from the moment that the Company accepts the replacement or repair.
- 21.6** If the Goods are intended for incorporation for installations or systems supplied by the Company the guarantee period begins from the moment the Company delivers those installations or systems to its principal.

22.0 Liability of the Supplier and Indemnification of Suir Engineering by the Supplier

- 22.1** The Supplier is responsible for the reimbursement of all costs and damages – including losses resulting from an injury and damage to property – caused by a shortcoming in the tools or materials used by the Supplier in order to implement the Contract concerned and/or any negligence on the part of the Supplier or its subordinates or the third parties it employed to implement the Contract concerned.
- 22.2** The Supplier will fully indemnify the Company in respect of the liability referred to in paragraph 22.1. Insofar as the shortcoming concerned affects safety or the environment, this liability also remains unprejudiced after the guarantee period.

CONDITIONS FOR THE SUPPLY OF SERVICES, EXECUTION OF ASSIGNMENTS AND ACCEPTANCE OF WORK

23.0 Safety, Health, Welfare and the Environment

- 23.1** The Supplier is responsible for welfare and safety, health and environmental circumstances at the work site. The Supplier must keep to all applicable statutory regulations, standards and local safety and environmental legislation the Supplier is responsible for the safety health and welfare of its employees and all others who may be affected by their operations.
- 23.2** The materials, equipment and tools used by the Supplier (including but not limited to cranes, hoists and lifting equipment, ladders and scaffolding) must meet all necessary safety requirements and be in a sound state of repair.
- 23.3** Employees who, in the opinion of the Company, behave in a dangerous manner on the work site must be immediately removed from the work site at first request will be subject to the Company's disciplinary procedures. The Supplier must ensure that these employees are replaced immediately.
- 23.4** If the Company observes an unsafe situation caused by the Supplier, the former is entitled to have the activities cease without being liable for damages and without such an interruption constituting force majeure vis-à-vis the Supplier.
- 23.5** Employees of the Supplier concerned must be provided by their respective Supplier with all necessary approved personal protective Equipment.

24.0 Intervention in Activities

- 24.1** If, in the opinion of the Company, the activities are proceeding such that the time period stipulated for the achievement of the contracted work to be performed, or a part thereof, will be exceeded, or if, in the opinion of the Company, the Supplier is not performing, or has not performed, the activities according to the stipulations of the Contract concerned and/or according to the requirements of sound workmanship, the Company will inform of this in writing.
- 24.2** If within 2 weeks after receiving notification as referred to in paragraph 1 of this clause, the Supplier has not, in the opinion of the Company, taken measures such that the delay will be made good within a short period of time, or such that the abovementioned stipulations and requirements will be met, the Company authorised without judicial intervention and without prejudice to any rights it may otherwise possess, to take all such measures that it considers necessary, which includes dismissing the Supplier from carrying out the activities and performing them itself or having them performed by third parties acting under its instruction . In that case, the Supplier will render the Company and said third parties all the assistance they require.
- 24.3** All external and internal costs that the Company has to incur in connection with the provisions of paragraph 2 will be borne by the Supplier, which will reimburse the Company of these costs immediately. At the very least, these costs will include reimbursing the Company for its Supervision and overhead costs.
- 24.4** If warranted by operating circumstances, safety and/or statutory legislation, the Company is also entitled to immediately intervene in the work outside the circumstances referred to in paragraph 1, without this releasing the Supplier from its liability. The Company will notify the Supplier of such intervention as soon as possible.

25.0 Transfer of Rights and Obligations and Subcontracting

- 25.1** The Supplier is forbidden to transfer or assign the Contract concerned or any part thereof, or any rights or claims arising by virtue thereof, to third parties without the prior written permission from the Company.
- 25.2** The Supplier will not subcontract the Contract concerned, or any part thereof other than that part of the Contract in respect of which the third party concerned is referred to in the Contract or Specification concerned, without prior permission from the Company.
- 25.3** The permission referred to in paragraphs 1 and 2 will not release the Supplier from any obligations arising by virtue of the contract concerned.

26.0 Materials, Equipment, Parts, Drawings and Similar Objects Provided by Suir Engineering

- 26.1** Materials, equipment, parts, drawings and similar objects that the Company. Provide the Supplier with for the purpose of implementing the Contract concerned remain the property of Company and must be returned in good condition after the Contract concerned has been implemented.
- 26.2** Until the items referred to in paragraph 1 have been returned to the Company, their possession will be at the risk of the Supplier, and the latter is obliged to keep them in a good state of repair.
- 26.3** When the Supplier receives the items referred to in this clause, it must verify whether they correspond with the Specifications and whether they are clearly marked as being the property of the Company.

27.0 Anti-Bribery Compliance

- 27.1** The Supplier or any person employed, engaged by or connected to the Supplier shall not:
- 27.1.1** Offer, promise, give or agree to give to any person employed, engaged by, or connected to the Company/ Employer any gift, consideration or advantage as an intentional inducement or reward for any improper act or failure to act in connection with this Agreement or any other agreement or arrangement between the parties, including the award of any agreement or business and any of the rights and obligations arising out of or in connection with any such relationship; nor
 - 27.1.2** Enter into this Agreement or any other agreement or arrangement with the Company / Employer in connection with which commission has been paid or has been agreed to be paid by the Supplier or on its behalf, or to its knowledge unless, before the relevant agreement is entered into, the particulars of any such commission and of the terms and conditions of any such contract for the payment of such commission have been disclosed in writing to the Company.
- 27.2** If the Supplier or any person employed or engaged by or connected with the Supplier breaches clause 27.1.1 or any provision of the Republic of Ireland Bribery Act or any other relevant anti-corruption legislation, the Company shall be entitled to terminate this Agreement by written notice with immediate effect.
- 27.3** The decision of the Company shall be final and conclusive in any dispute, difference or question arising in respect of:
- 27.3.1** The interpretation of this clause; and
 - 27.3.2** Where a breach as described in clause 27.1.2 has occurred, the right of the Company under this clause 27 to terminate this Agreement, and/or any Service.
- 27.4** Any termination of this Agreement under clause 27.1.1 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues to the Company.
- 27.5** If the Supplier commits or suspects that anyone employed engaged by or connected to the Supplier has committed an act or omission in breach of clause 27.1.1, the Supplier shall inform the Company immediately in writing and in full confidence.
- 27.6** Without prejudice to the Company's right to terminate this Agreement under this clause, the Supplier shall indemnify and keep indemnified the Company against all losses, damages, costs (including legal costs), proceedings, claims, liabilities or expenses suffered or reasonably and properly incurred by the Company arising out of or in connection with any breach of this clause.
- 27.7** The Company's Supplier Code of Conduct (as may be amended from time to time) can be found at the Suir Engineering head office in Waterford and at www.suireng.ie. The Supplier hereby confirms that it is on notice of such Supplier Code of Conduct and all other policies of the Company and hereby waives any defence it may have for a breach of this clause by virtue of the fact that it may not have been provided with a copy of the Company's Supplier Code of Conduct or any other policies of the Company. The Supplier Code of Conduct and all other policies of the Company are available on request. The Supplier hereby acknowledges that it is their obligation alone to request copies of the Supplier Code of Conduct and any other policy of the Company.
- 27.8** The Company shall be entitled to audit the Supplier, which shall include a right to visit the Supplier's premises, to prove and ensure that the Supplier is in full compliance with the Contract and all applicable Law (in particular, without limitation, to ensure compliance with this clause, employment law and health and safety law) at its discretion, upon the provision of reasonable notice.

28.0 Data Protection

The Parties shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data and each Party (the "indemnifying party") shall indemnify and keep indemnified the other Party ("the indemnified party") against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, demands and legal and other professional costs arising out of or in connection with any breach by the indemnifying party of its obligations under this Sub-clause.










IMSF-PUR-04 Purchase Order General Terms & Conditions Rev 1

Final Audit Report

2023-03-02


Created:	2023-02-15
By:	Geraldine Curran (gcurran@suireng.ie)
Status:	Signed
Transaction ID:	CBJCHBCAABAAohCdKHZcnzwUwsZLRGEIAHYOa9u2TR2P

"IMSF-PUR-04 Purchase Order General Terms & Conditions Rev 1" History

-  Document created by Geraldine Curran (gcurran@suireng.ie)
2023-02-15 - 9:20:45 AM GMT
-  Document emailed to Ian Harmon (iharmon@suireng.ie) for signature
2023-02-15 - 9:30:35 AM GMT
-  Email viewed by Ian Harmon (iharmon@suireng.ie)
2023-02-15 - 11:44:37 AM GMT
-  Document e-signed by Ian Harmon (iharmon@suireng.ie)
Signature Date: 2023-02-15 - 11:52:53 AM GMT - Time Source: server
-  Document emailed to Stephen Herron (sherron@suireng.ie) for signature
2023-02-15 - 11:52:54 AM GMT
-  Document e-signed by Stephen Herron (sherron@suireng.ie)
E-signature obtained using URL retrieved through the Adobe Acrobat Sign API
Signature Date: 2023-02-22 - 10:33:23 AM GMT - Time Source: server
-  Document emailed to Declan Denn (ddenn@suireng.ie) for signature
2023-02-22 - 10:33:25 AM GMT
-  Email viewed by Declan Denn (ddenn@suireng.ie)
2023-03-02 - 11:20:47 AM GMT
-  New document URL requested by Declan Denn (ddenn@suireng.ie)
2023-03-02 - 11:20:59 AM GMT

 Document e-signed by Declan Denn (ddenn@suireng.ie)


Signature Date: 2023-03-02 - 11:23:33 AM GMT - Time Source: server

 Document emailed to Fintan McCleane (fmcleane@suireng.ie) for signature

2023-03-02 - 11:23:56 AM GMT

 Email viewed by Fintan McCleane (fmcleane@suireng.ie)

2023-03-02 - 12:13:15 PM GMT

 Document e-signed by Fintan McCleane (fmcleane@suireng.ie)

Signature Date: 2023-03-02 - 12:14:19 PM GMT - Time Source: server

 Agreement completed.

2023-03-02 - 12:14:19 PM GMT