

NETWORK RAIL 1(S)
PURCHASE ORDER CONDITIONS FOR THE PURCHASE OF GOODS
(ONLY TO BE USED AS ATTACHMENT TO PURCHASE ORDER)

1. **INTERPRETATION**

In these clauses, where the context admits:
"Agreed Rail Industry Period" means each or any of Network Rail's thirteen accounting periods in a Contract Year;
"Contract" means the agreement between Network Rail and the Supplier which incorporates these Purchase Order Conditions and the requirements set out in the Purchase Order;
"Contract Year" means the period from 00.00 hours on 1 April until 24.00 hours on 31 March;
"Goods" means the Goods and/or equipment and/or materials to be supplied under the Purchase Order;
"Specification" means the specifications, drawings, samples and/or patterns (if any) referred to or described in the Purchase Order in accordance with which the Goods are to be supplied, and any modifications to them that may be agreed;
"Network Rail" means Network Rail Infrastructure Limited (registered in England under number 2904587), whose registered office is at Kings Place, 90 York Way, London, N1 9AG, its successors and/or permitted assignees;
"Purchase Order" means the Network Rail Purchase Order used by Network Rail to order Goods from the Supplier;
"Supplier" means the person(s) who undertake(s) to supply Goods and his or their successors and/or permitted assignees;
"Warranty Period" means 12 months from the date on which the Goods are actually delivered (if the Goods are delivered in separate consignments, from the date on which each consignment is actually delivered) or such other Warranty Period as may be stated in the Purchase Order.
2. **QUALITY**
 - a) Without prejudice to or limitation of Network Rail's statutory rights, the Goods supplied shall comply in all respects with the Specification, but if no Specification is referred to in the Purchase Order the Goods shall comply in all respects with any Railway Group Standards and Network Rail Standards of which the Supplier is aware or ought reasonably to be aware and shall be of the best quality appropriate for the purpose specified by Network Rail or if not so specified reasonably applicable to such Goods.
 - b) In accordance with Network Rail's QA Policy Statement 2011 (available at <http://www.networkrail.co.uk/aspx/3262.aspx>), where the Specification and/or Product Acceptance Certificates specify quality assurance classifications (QA1 to QA5) for the Goods, the Supplier shall comply with the specified level of quality assurance required for each product and allow Network Rail access to carry out its quality assurance checks.
3. **INTELLECTUAL PROPERTY RIGHTS**

The Supplier shall indemnify Network Rail against all loss, damage, costs and expenses for which Network Rail is or becomes liable as a result of any infringement or alleged infringement by the Supplier of any third party's intellectual property rights.
4. **DELIVERY**
 - a) The Supplier shall deliver the Goods in accordance with the instructions shown on the Purchase Order and any specified delivery date and time of delivery shall be of the essence of this contract. Network Rail will be under no obligation to accept or pay for quantities of Goods delivered in excess or in advance of the quantity, date or rate (as appropriate) stipulated by such instructions.
 - b) Unless otherwise provided in the Purchase Order, no charge shall be made by the Supplier for packing cases and materials or for delivery to the specified place of delivery.
 - c) Each delivery shall be accompanied by a delivery advice note which must clearly show the quantities being delivered and the Network Rail Purchase Order number.
5. **INVOICES**

Invoices should be addressed to "Network Rail, Accounts Payable, P.O. Box 4145, Manchester, M60 7WZ". Unless otherwise agreed in writing, invoices must be dated and issued no earlier than the delivery date of each consignment of Goods and must show any applicable trade or settlement discount, the Network Rail Purchase Order number and the delivery advice note number.
6. **PAYMENT**
 - a) Without prejudice to its rights under clause 8 and clause 15 Network Rail shall, in respect of Goods which have been properly supplied and delivered in accordance with these conditions and for which Network Rail has received a valid and correct invoice, pay the price in the Purchase Order to the Supplier in respect of that invoice no later than the last day of the month following the month in which it is received unless otherwise stated in the Purchase Order. If the Supplier's invoice does not comply with the requirements of clause 5 and clause 9, Network Rail shall be under no obligation to pay the same.
 - b) If any sum under the Contract is not paid by the final date for payment then, without prejudice to the parties' other rights under the Contract, that sum shall bear simple interest from the final date for payment until payment is made in full at a rate of 4% per annum above the Bank of England Base Rate current at the date that a payment under this Contract becomes overdue. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.
7. **QUALITY ASSURANCE**
 - a) The Supplier shall give Network Rail's representatives access at all reasonable times to its premises and allow them to inspect its quality systems and production methods and, if requested, to inspect, examine and test the Goods both during and after their manufacture and the materials being used in their manufacture.
 - b) Any costs incurred by the Supplier in arranging compliance with the quality standards required by Network Rail shall be borne by the Supplier.
8. **REJECTION AND REPLACEMENT**
 - a) Without prejudice to or limitation of its statutory rights Network Rail may, at any time prior to payment for the relevant Goods, notwithstanding the use or continued use by Network Rail of the Goods after any right to reject them has arisen, reject by notice in writing (without liability to Network Rail) any Goods which, in the reasonable opinion of Network Rail, are not of satisfactory quality and/or fit for their purpose and/or in accordance with the Specification and/or the Purchase Order. Any Goods not so rejected shall be deemed to have been accepted by Network Rail.
 - b) The Supplier shall remove rejected Goods within 14 days of receipt of Network Rail's notice of rejection, failing which Network Rail may (at its sole option) deliver them to the Supplier, in either case at the Supplier's cost and risk.
 - c) Where such rejected Goods form part of a series of consignments, nothing in these conditions shall prevent Network Rail from accepting subsequent consignments if the Goods contained within such subsequent consignments are acceptable to Network Rail.
9. **VALUE ADDED TAX ETC.**

All prices indicated shall be exclusive of Value Added Tax (VAT). The Supplier shall, if registered for VAT, supply a valid VAT invoice. The Supplier shall provide further information as may reasonably be required in relation to any such invoice.
10. **WARRANTY**
 - a) Without prejudice to Network Rail's other rights and remedies, if during the Warranty Period any defect occurs in any of the Goods due to the material, workmanship or design of the Goods not being in accordance with the Purchase Order or any applicable statutory or regulatory standards, the Supplier shall as soon as practicable and in any event within a reasonable time as stipulated by Network Rail replace or repair such defective Goods at its own expense.
 - b) Goods replaced or repaired under clause 10.a) shall be subject to a full Warranty Period commencing on the actual date of delivery of the repaired or replaced Goods and clause 10.a) shall apply and continue to apply for the Warranty Period.
11. **TITLE AND RISK**
 - a) Title in the Goods will pass to Network Rail upon payment to the Supplier, save where payment (either in whole or in part) is made for the Goods prior to their delivery to Network Rail, or where Network Rail has supplied materials to be incorporated in the Goods, in which cases clause 11.b) shall apply.
 - b) Where this clause 11.b) applies (without prejudice to Network Rail's rights under clauses 8 and 10) title to the Goods shall vest in Network Rail from the commencement of their manufacture, and title to all materials and other items which the Supplier shall acquire or allocate for incorporation in any of the Goods shall vest in Network Rail from the time they are so acquired or allocated.
 - c) The Goods shall be at the Supplier's risk until they are delivered to Network Rail notwithstanding that payment may have already been made and title passed to Network Rail, and the Supplier shall be responsible for any loss or damage and for arranging and paying for their storage, handling and insurance.
12. **STATUTORY AND OTHER REGULATIONS**
 - a) The Supplier shall comply in all respects with the law and all applicable rules and regulations.
 - b) The Supplier shall ensure that the Goods are suitably packed and identified at the time of their delivery with reference to the hazards attached to them in accordance with statutory requirements.
13. **TERMINATION**
 - a) In the event of:
 - (i) the passing by the Supplier of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Supplier or a bankruptcy order; or
 - (ii) the making of an administration order in relation to the Supplier or the appointment of an administrative receiver; or
 - (iii) the Supplier making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally,Network Rail may, without prejudice to any other power of termination or to any rights or remedies it may have, terminate the Contract forthwith by written notice and the Supplier shall indemnify Network Rail against all costs, expenses and damages for which Network Rail becomes liable arising from such termination.
 - b) Without prejudice to Network Rail's rights to obtain replacement Goods under clauses 8 and 10, if:
 - (i) the Supplier commits any material breach or series of breaches which amount to a material breach of the Contract and fails to remedy such breach within 14 days of being given written notice to do so by Network Rail; or
 - (ii) the Supplier fails to perform its obligations under the Contract with due diligence or to comply with the specified delivery dates,Network Rail may forthwith terminate the Contract by written notice and shall thereupon be entitled:
 - to return to the Supplier at the Supplier's own risk and expense any of the Goods already delivered but which cannot in Network Rail's opinion be effectively or commercially used by reason of the non-delivery of Goods still undelivered, and to recover any payments made to the Supplier in respect of the Goods so returned; and
 - to recover from the Supplier any additional direct cost reasonably incurred by Network Rail in obtaining other Goods in lieu of those so returned and those not delivered because of the termination of the Contract.
 - c) Termination of the Contract shall not prejudice or affect any right or remedy which has accrued or shall accrue thereafter to Network Rail.
 - d) Network Rail may, in addition to any other power it may have, at any time by written notice to the Supplier forthwith terminate the Contract. In such circumstances, the Supplier shall only be entitled to payment for Goods already delivered to Network Rail at the date of such termination plus the net cost of any material and work in progress, which shall be made available to Network Rail if required, that the Supplier cannot utilise elsewhere.
14. **GOVERNING LAW AND JURISDICTION**
 - a) The Contract shall be governed by and construed in accordance with English law and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of the Contract shall be subject to the non-exclusive jurisdiction of the English courts.
 - b) No claims shall be brought under the Contract after the expiry of 6 years from the date of delivery of the Goods (or, in the case of Goods replaced under clauses 8 or 10, from the date of delivery of such replacement Goods).

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15. **SET-OFF**
Without prejudice to Network Rail's other rights and remedies, Network Rail may deduct from any sums due to the Supplier under the Contract an amount equivalent to any sum due from the Supplier to Network Rail (whether such sums are due to Network Rail under the Contract or under any other agreement between the Supplier and Network Rail) and may also deduct any sum of money that is recoverable from or payable by the Supplier under the Contract from any sum due or which at any time thereafter may become due under any other agreement between Network Rail and the Supplier.
16. **WAIVER**
No failure to exercise or delay in exercising any right, power or remedy under or in connection with the Contract shall operate as a waiver thereof, and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof, or the exercise of any other right or remedy.
17. **CONFIDENTIALITY**
All information obtained by the Supplier in the course or conduct of the Contract, including the existence of this Contract shall be held confidential and shall not be divulged by the Supplier to any third party save to the extent necessary to supply the Goods and then only on the basis that the recipient of such information shall be bound by similar confidentiality obligations to those undertaken by the Supplier.
18. **RIGHTS OF THIRD PARTIES**
No person other than those persons who are parties to this agreement; or their respective successors in title and/or assignees; shall have any rights to enforce any term of this Contract, whether or not any such term expressly or impliedly purports to confer any benefit upon such person.
19. **ANTI-BRIBERY REQUIREMENTS**
- a) The Supplier shall comply with all applicable anti-bribery and anti-corruption legislation including, without limitation, the Bribery Act 2010 and any applicable European Union Directives. The Supplier shall also comply with Network Rail's codes and policies on business ethics, interests in transactions and corporate hospitality, and any updates thereof. Any breach of this clause shall be deemed a material breach under this Contract. (Note: These codes and policies are available on line at: <http://www.networkrail.co.uk/asp/12859.aspx>)
- b) Throughout the term of this Contract the Supplier shall maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with all applicable anti-bribery and anti-corruption legislation and European Union Directives. Adequate procedures shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of the Act).
- c) The Supplier shall use all reasonable endeavours to ensure that all persons associated with the Supplier (as defined by section 8 of the Bribery Act 2010) including any subcontractors and suppliers comply with clause a) and b) above.