

# BIFFA GROUP OF COMPANIES GENERAL CONDITIONS OF PURCHASE

## 1 DEFINITIONS

In these Conditions of Purchase the following definitions shall have effect unless the context otherwise dictates.

- (a) "the Company" shall mean Biffa Waste Services Limited or any other member of the group of companies of which Biffa Plc is the holding company
- (b) "Vendor" shall mean the person firm or corporation from which the Company obtains goods, work or services
- (c) "supply" shall mean the supply of goods work or services of any kind whatsoever to the Company described in the order
- (d) "order" shall mean the order for the supply issued by the Company together with the date referred to therein and together with these Conditions
- (e) "goods" shall mean the goods comprised in the supply
- (f) "data" shall mean drawings specifications design and technical data relating to the supply

## 2 INCORPORATION OF THE COMPANY'S CONDITIONS

- (a) The Conditions herein stated shall form part of the order and these conditions and the data shall not be varied without the consent of the Company in writing
- (b) In the event of any conflict between these Conditions and any special conditions stated in the order the special conditions shall prevail

## 3 AGREEMENT BY VENDOR

- (a) The Vendor shall sell and deliver the supply strictly in accordance with the order including all necessary protection painting packaging and labelling for the goods
- (b) The Vendor shall acknowledge receipt and acceptance of the order duly signed
- (c) The commencement of any part of the supply or the despatch by the Vendor of the goods shall constitute acceptance of the order and these Conditions

## 4 DATE TIME AND PLACE OF SUPPLY

- (a) The date time and place of delivery of goods and performance of the supply shall be of the essence of the order
- (b) The Company shall have the right to request the Vendor to delay the supply in order to comply with the requirements of the Company's operations for such time as shall be reasonable
- (c) Any goods supplied to the Company shall remain at the Vendor's risk irrespective of whether or not property shall have passed to the Company until completion of delivery to the Company or where commissioning of goods is required until the same shall have been commissioned and accepted by the Company.
- (d) The property in the goods shall pass to the Company upon whichever of the following events first occurs
  - (i) the payment by the Company of any part of the price of the goods
  - (ii) the delivery to the Company and where required the commissioning of the goods and the acceptance of the same by the Company

## 5 ACCEPTANCE OF SUPPLY

- (a) Whether or not the Company inspects the goods whether under Conditions 8 or otherwise this fact shall not release the Vendor in any way from its obligations in respect of the goods nor shall it imply acceptance of the goods by the Company
- (b) The Company reserves the right to reject the goods or any supply not conforming to quality quantity standard or description in the order or being unfit for the purpose intended by the Company or in breach of these Conditions whether or not the property in the goods shall have passed to the Company
- (c) The Company may return rejected goods at the Vendor's risk and expense

## 6 BREACH BY THE VENDOR

- (a) In the event of any breach of the special Conditions of the order or these Conditions the Company may without prejudice to any other remedy and whether or not the Company has accepted the supply or any part thereof or the property in the goods or services has passed to the Company or any payment has been made by the Company
  - (i) treat the order as repudiated
  - (ii) treat any such breach as breach of warranty giving rise to a claim for damages
  - (iii) return any goods previously delivered at the Vendor's risk and expense and/or require the Vendor to repay forthwith to the Company all money paid by the Company to the Vendor in respect of such goods
- (b) If the supply is rejected the Company may without prejudice to any other remedy available to the company and whether or not the Company has made any payment at its option at the Vendor's expense:
  - (i) require the Vendor to make good any defects in supply immediately
  - (ii) require the Vendor to replace the supply with goods or services free from defect immediately or
  - (iii) replace the goods or services itself from a third party and recover all expenses from the Vendor

## 7 IDENTIFICATION AND INVOICING

- (a) The Vendor shall ensure that all invoices communications advice notes packaging of goods identify the supply and display the order number and reference
- (b) The Vendor shall ensure that a delivery note should accompany each supply of goods
- (c) The Vendor shall advise the Company of despatch of goods forthwith upon despatch of the same
- (d) Invoices shall not cover more than one order and separate invoices shall be rendered for each supply made against the order
- (e) Where the invoice refers to charges whether for transportation or otherwise made to a third party the Vendor shall with such invoice supply full evidence and justification for such charges
- (f) No variation in price of the supply shall be accepted unless agreement thereto is confirmed in writing by the Company and the price shall not be subject to any escalation for any reason whatsoever
- (g) Notwithstanding any agreed terms of payment the Company reserves the right to withhold all or part of the payment due:
  - (i) if the Vendor has failed to supply any of the documentation required under the order or
  - (ii) if the Vendor is in breach of any of the conditions of the order in respect of any part of the supply
  - (iii) in respect of any disputed item on any invoice until settlement of the disputed item
- (h) The Company shall have the right to deduct from any money due to the Vendor any money due from the Vendor to the Company on any account or in any respect
- (i) In no circumstances shall the Company be required to make any payment until after completion of the supply
- (j) Invoices must show cash discount terms for early payment. Due dates of payment and deduction of cash discount shall be based upon the date of receipt by the Company of correct invoices
- (k) The Vendors shall upon request by the Company permit the Company to inspect the books and records of the Vendor in order to verify any payment made by the Vendor of which the Vendor seeks to be reimbursed by the Company
- (l) The invoice price shall be deemed to include:
  - (i) all taxes and duties of every kind which may be levied in respect of the supply save that where the supply is stated to be VAT exclusive the amount of VAT shall be clearly and correctly shown on the invoice
  - (ii) all packing loading carriage insurance and delivery charges

## 8 PROGRESS CHECKS INSPECTION AND TRAINING

The Vendor shall afford to the Company every facility either at the premises of the Vendor or its agents or sub-contractors to enable the Company to inspect examine and test the goods or other work or services during manufacture and before delivery

## 9 DELAY IN SUPPLY

If delivery of goods or completion of the supply shall be delayed there shall be deducted from the price by way of liquidation damages the amount of 2% of the value of the supply for each week that delivery exceeds the contractual delivery date up to a maximum of 10% of the contract price

## 10 DATA

- (a) If the Vendor considers that there is any omission inconsistency or inaccuracy in the data the Vendor shall notify the Company in writing forthwith
- (b) The Vendor shall when requested provide such data as shall be reasonably required by the Company in relation to the supply. Any approval of such data by the Company shall not imply that the Company has checked or is responsible for the accuracy of such data
- (c) All data supplied by the Company shall be returned to the Company after completion of the supply
- (d) All data produced or created in relation to the supply shall be deemed to be the property of the Company

## 11 CONFIDENTIALITY

This order and all data are confidential documents between the Company and the Vendor and save in the proper performance for the order the Vendor shall not disclose the same to any third party without the consent in writing of the Company

## 12 ASSIGNMENT

- (a) The Vendor shall not without the written consent of the Company assign or sub-contract the order or any part thereof or
- (b) If the Company shall consent to any such assignment or sub-contract to a third party the Vendor shall incorporate in any contract with the third party terms and conditions to allow all obligations of the Vendor under the order to be observed and performed
- (c) The Vendor shall forthwith upon entering into any such assignment or sub-contract provide to the Company a copy of such assignment or sub-contract
- (d) Any such assignment or sub-contract shall not relieve the Vendor from any of its obligations under the order

## 13 WARRANTY

Without prejudice to any other rights of the Company the Vendor undertakes at the Company's option and the Vendor's expense either to repair or replace or refund the cost of the goods or any other work or services which fail or are defective within a period of twelve months from the date of delivery or completion of the supply provided that where the goods or other work or services are to be incorporated into plant such warranty shall continue for either twelve months after commissioning the plant or twenty-four months after delivery of the goods or completion of the supply whichever shall be the latest to occur. All goods so repaired or replaced shall be similarly guaranteed by the Vendor for a similar period calculated from the date of their redelivery after repair or replacement

## 14 SPARES SUPPORT

The Vendor shall ensure that component parts or identical replacements shall be available to the Company for at least five years from the delivery of the goods or completion of the supply provided that if such parts or replacements are to be made or become obsolete the Vendor shall give at least nine months prior written notice thereof to the Company

## 15 STATUTORY AND PATENT RIGHTS

- (a) The Vendor warrants that:
  - (i) the design construction and quality of the goods or other supply complies in all respects with the requirements of any statute statutory rule or order or regulations or any laws or requirements of any governmental authority in any part of the world relative thereto which may be in force at the time of supply and that the Vendor shall observe and perform all such requirements and obtain and pay for all licences and permits necessary for the completion of the supply
  - (ii) the supply to the Company or the use of the goods work or services by the Company shall not infringe any patent registered design trade mark service mark copyright or similar protection the property of any other person firm or corporation
- (b) The Vendor shall indemnify the Company against any action for infringement or alleged infringement of any matters referred to in this Condition and any losses damages claims or demands of whatever nature arising therefrom

## 16 TERMINATION

- (a) The order may be terminated at any time by the Company by giving to the Vendor written notice. On receipt of such notice the Vendor shall cease the supply or the relevant part thereof
- (b) The Company shall pay a fair and reasonable price for all goods work or services at the time of receipt of such notice which shall have been delivered or supplied to the Company or in a deliverable state and subsequently received by or supplied to the Company
- (c) The Company shall not be under any further liability to the vendor other than under paragraph (b) of this Condition

## 17 INSURANCE

The Vendor when working on or delivering to the Company's premises shall provide at all times insurance of not less than £1 million with insurers of repute against Employers Liability and Public Liability risks and any other risks reasonably required by the Company. Any such insurance shall provide for the waiver of any rights of subrogation which may be enforceable against the Company

## 18 INDEMNITY

- The Vendor shall indemnify, the Company against all losses claims charges expenses damages proceedings interest and costs arising out of or in connection with:-
- (a) any damage loss or destruction of any property (including without limitation the goods works or services under the order and property of the Vendor and its servants agents or subcontractors) or injury to or death of any person directly or indirectly caused by the performance of this order
  - (b) any breach by the Vendor of any of the terms or conditions of the order
  - (c) any damage loss or destruction of any property aforesaid injury to or death of any person directly or indirectly caused by defective workmanship or quality or latent or inherent defect or hazard to health and safety in the goods work or services under the order
  - (d) any consequential loss or damage sustained by the Company or for which the Company may be liable as a result of the failure of the Vendor to perform the supply in accordance with the terms of the order

## 19 HEALTH & SAFETY

- (a) All goods supplied to the Company must conform and comply with European and UK Health and Safety legislation primarily but not limited to, the Health and Safety at work Act 1974 and regulations made under this Act, as amended from time to time
- (b) The supplier shall be responsible at its own expense for the safe and suitable packaging of the goods and provision of suitable information with regard to Health and Safety for their safe use and maintenance
- (c) All goods shall be delivered to the Company in a safe condition ensuring that the method of packaging does not put at risk any persons unloading or unpacking the goods
- (d) All installations must be carried out according to written, safe systems of work
- (e) The Supplier shall observe the requirements of UK legislation with respect to the classification, packaging and labelling of chemicals and Dangerous Goods for use at work and the provision of safety data
- (f) When being transported, all Dangerous Goods shall be classified, packaged and labelled in accordance with the regulations that govern the Carriage of Dangerous Goods. All labels and information required by these regulations shall be provided in English. All information held by, or reasonably available to the Supplier regarding any potential hazards known or believed to exist in the transportation, handling or use of the goods shall be promptly communicated to the Company
- (g) All machinery shall be safe for use and, where subject to the Supply of Machinery (Safety) Regs 1992, the supplier shall ensure a CE mark is fixed to the machinery and provide The Company with a Declaration of Conformity.

## 20 INDEPENDENT CONTRACTOR

The Vendor is and shall at all times during the supply be an independent contractor and shall not be subject to the control or be deemed the agent of the Company

## 21 CONFLICT WITH THE VENDOR'S CONDITIONS

Any conditions contained in any acceptance of the order by the vendor which would conflict with any of the conditions of the order shall be deemed to be of no effect unless expressly agreed by the Company in writing and the commencement of supply by the Vendor shall be deemed to waive any conflicting conditions in the Vendor's acceptance

## 22 LAW OF CONTRACT

The order shall be governed construed and shall take effect in accordance with the Laws of England

## 23 EFFECT OF HEADINGS

The headings of these Conditions are for guidance only and are not to be construed as forming part or in any way limiting the effect of these Conditions