

Terms and conditions applicable to the supply of goods Version 3.0 (October 2021)

1. Interpretation

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 15.4.

Contract: the contract between Gleeson and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

Gleeson: Gleeson Developments Limited (registered in England and Wales with company number 00848808).

Gleeson Materials: has the meaning set out in clause 8.

Delivery Date: the date specified in the Order, or, where the Goods are to be delivered in instalments, in any agreed delivery or call off schedule.

Delivery Location: the address for delivery of Goods as set out in the Order.

Goods: the goods or materials (or any part of them) set out in the Order.

Health and Safety Policy: means the health and safety policy produced by Gleeson from time to time.

Order: means an order in writing on Gleeson's official order form or other instruction in writing for the Goods issued by Gleeson to the Supplier (including any agreed delivery or call off schedule) together with all documents referred to therein and specifying an order number.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by Gleeson and the Supplier or as set out in the Order.

Supplier: the person or firm from whom Gleeson purchases the Goods.

Sustainability Policies: means Gleeson's Sustainable Packaging Policy, Sustainable Procurement Policy, Sustainable Timber Policy, Sustainable Waste Policy and any other sustainability-oriented policy produced by Gleeson from time to time and notified to the Supplier.

1.2 Interpretation

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.

- (a) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Basis of contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by Gleeson to purchase the Goods in accordance with these Conditions.
- 2.3 The Order shall be deemed to be accepted on the earlier of:
 - (a) the Supplier issuing a written acceptance of the Order (if applicable); and
 - (b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.
- 2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.5 Gleeson shall be entitled to amend, alter or adjust the quantity or type of goods stated in an Order at any time without any liability for any loss occasioned to the Supplier thereby. The Supplier shall not be entitled to amend, alter or adjust the quantity or type of goods stated in an Order without the prior written consent of Gleeson, nor shall the Supplier substitute any of the Goods for alternative goods unless agreed in writing with Gleeson.

3. The goods

- 3.1 The Supplier shall ensure that the Goods shall:
 - (a) correspond with their description and any applicable Specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by Gleeson expressly or by implication, and in this respect Gleeson relies on the Supplier's skill and judgement;
 - (c) where they are manufactured products, be free from defects in design, material and workmanship;
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
 - (e) comply with any of the applicable Sustainability Policies.
- 3.2 To the extent that the Goods comprise timber products, the Supplier shall ensure they are clearly labelled as PEFC or FSC.

- 3.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.4 Gleeson may inspect and test the Goods at any time before delivery and shall be afforded access to any of the Supplier's premises in order to do so. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.5 If following such inspection or testing Gleeson considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, Gleeson may (at its entire discretion) either:
- (a) require the Seller take such remedial action as is necessary to ensure due compliance; or
 - (b) reject the Goods and terminate the Contract.
- 3.6 Gleeson may conduct further inspections and tests after the Supplier has carried out any remedial actions required pursuant to clause 3.5(a) and if such remedial actions have failed then Gleeson may reject the Goods and terminate the Contract.

4. Delivery

- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered in instalments, the outstanding balance of Goods remaining to be delivered;
 - (c) any packaging material shall comply with the Sustainable Packaging Policy;
 - (d) all delivery drivers wear the appropriate PPE when on site and outside their vehicle. Where deliveries are made on a Hiab vehicle, a Hiab Thorough Examination Certificate shall be provided to Gleeson for inspection.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the Delivery Date;
 - (b) at the Delivery Location; and
 - (c) during Gleeson's normal business hours, or as otherwise instructed by Gleeson.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location and upon Gleeson signing a delivery ticket (in either paper or electronic form) produced by the Supplier. For the avoidance of doubt, any such signature by Gleeson shall not in any way prejudice Gleeson's remedies under clause 5.
- 4.4 On delivery the Supplier shall provide Gleeson with copies of any test certificates (including any relevant safety certification) or product guarantees applicable to the Goods.

4.5 If the Supplier:

- (a) delivers less than 100% of the quantity of Goods ordered (or called off), Gleeson may reject the Goods; or
- (b) delivers more than 100% of the quantity of Goods ordered (or called off), Gleeson may retain the excess Goods free of charge unless the Supplier collects the same at its own risk and expense within 24 hours from delivery.

4.6 Where it is agreed that the Goods are to be delivered in instalments and in accordance with an agreed delivery or call off schedule, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle Gleeson to the remedies set out in clause 5.

4.7 Time shall be of the essence for delivery.

5. Gleeson's remedies

5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, Gleeson may exercise any one or more of the following rights and remedies:

- (a) to terminate the Contract;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any costs incurred by Gleeson in obtaining substitute goods from a third party; and
- (f) to claim damages on an indemnity basis for any other costs, loss or expenses incurred by Gleeson which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.3 Gleeson's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

6. Title and risk

Title and risk in the Goods shall pass to Gleeson on completion of delivery in accordance with clause 4.3.

7. Price and payment

7.1 The price of the Goods shall be the price set out in the Order.

7.2 The price of the Goods:

- (a) excludes amounts in respect of value added tax (**VAT**), which Gleeson shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (b) includes the costs of packaging, insurance and carriage of the Goods.
- 7.3 No extra charges or variations to rates shall be effective unless agreed in writing with Gleeson.
- 7.4 The Supplier may invoice Gleeson for the price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery or installation (if required). An invoice shall only be valid if it includes the date of the Order, the invoice number, Gleeson's purchase order number, the site address, quantity and rate/value of the Goods, the Supplier's VAT registration number and any supporting documents or information that Gleeson may reasonably require.
- 7.5 If the supplier fails to provide a valid invoice in accordance with clause 7.4 then Gleeson's obligation to pay shall not arise until such time as a valid invoice is supplied.
- 7.6 Gleeson shall pay valid invoices by the end of the month following the month in which the invoice is received. Payment shall be made to the bank account nominated in writing by the Supplier.
- 7.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue daily at 4% a year above the Bank of England's base rate from time to time. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 7.8 Gleeson may at any time set off any liability of the Supplier to Gleeson against any liability of Gleeson to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. Any exercise by Gleeson of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

8. Gleeson materials

The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by Gleeson to the Supplier (**Gleeson Materials**) and all rights in the Gleeson Materials are and shall remain the exclusive property of Gleeson. The Supplier shall keep the Gleeson Materials in safe custody at its own risk, maintain them in good condition until returned to Gleeson and not dispose or use the same other than in accordance with Gleeson's written instructions or authorisation.

9. Indemnity

- 9.1 The Supplier shall indemnify Gleeson against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Gleeson as a result of or in connection with:
- (a) any claim made against Gleeson for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the manufacture, supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

- (b) any claim made against Gleeson by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
- (c) any claim made against Gleeson by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

9.2 This clause 9 shall survive termination of the Contract.

10. Insurance

During the term of the Contract and for a period of 12 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, employer's liability insurance, product liability insurance and public liability insurance at a sufficient level to cover the liabilities that may arise under or in connection with the Contract, and shall, on Gleeson'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. For the avoidance of doubt, such insurance shall cover any losses incurred prior to delivery of the Goods, any damage caused during delivery, offloading or entering or leaving the Delivery Location.

11. Confidentiality

11.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

12. Compliance with relevant laws and policies

12.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes and regulations from time to time in force which for the avoidance of doubt shall include all duties relating to health and safety of all workers and general members of the public.
- (b) comply with the Health and Safety Policy and the Sustainability Policies.

- (c) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010.
- (d) comply, and shall ensure that each of its employees, subcontractors, suppliers, servants and agents shall comply with:
 - (i) The Modern Slavery Act 2015; and
 - (ii) Gleeson's Anti-Slavery Policy as Gleeson may update from time to time.
- (e) permit Gleeson and its third party representatives on reasonable notice, but without notice in the case of any reasonably suspected breach of the Supplier's obligations under clause 12.1(d), to have access to and take copies of the Supplier's records and any other information and to meet with the Supplier or the Supplier's representative to audit the Supplier's compliance with its obligations under clause 12.1(d).

13. Termination

- 13.1 Gleeson may terminate the Contract in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract.
- 13.2 Without limiting its other rights or remedies, Gleeson may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within seven days of that party being notified in writing to do so;
 - (b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - (c) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business;
 - (d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (e) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.
- 13.3 On termination of the Contract, the Supplier shall immediately return all Gleeson Materials. If the Supplier fails to do so, then Gleeson may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

13.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

13.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

14. Force majeure

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

15. General

15.1 Assignment and other dealings

- (a) Gleeson may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, mortgage, charge, delegate, 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 Gleeson.

15.2 **Subcontracting**

The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of Gleeson. If Gleeson consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own and shall ensure that any subcontracts shall contain provisions no less onerous than those set out in this agreement.

15.3 **Entire agreement**

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.

15.4 **Variation**

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Gleeson.

15.5 **Waiver**

Except as set out in clause 2.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.6 **Severance**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the Contract is deemed deleted under this clause 15.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.7 **Notices**

- (a) Any notice given to a party under or in connection with the Contract shall be in writing (which for the avoidance of doubt includes email) and shall be delivered electronically, by hand or by prepaid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) Any notice shall be deemed to have been received:
 - (i) if sent by email, the time of transmission or, if this time falls outside business hours in the place of receipt, when business hours resume;
 - (ii) if delivered by hand, at the time the notice is left at the proper address; or
 - (iii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15.8 **Third party rights**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15.9 **Governing law**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

15.10 **Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.