

BIRMINGHAM AIRPORT LIMITED

## TERMS AND CONDITIONS OF PURCHASE - SHORT FORM FOR GOODS

The Terms and Conditions set out below shall apply to the purchase of goods only. Purchase of services, either in whole or part or Consultancy will fall within the terms as detailed at <https://www.birminghamairport.co.uk/about-us/doing-business-with-us/procurement/>

### **1. Statement**

The contract relating to the goods to be supplied ("the Goods" which expression includes any of them or any part of them) will be on the terms and conditions set out below (the "Contract Terms") to the exclusion of any other terms and conditions contained or referred to in any document or statement sent by the "Supplier" (the person or company charged with supplying the goods as detailed on the purchase order) to the Purchaser in relation to the Goods. No other terms shall bind the Purchaser unless expressly accepted by the Purchaser (Birmingham Airport Limited) in writing.

### **2. Price and Payment**

2.1 The Purchaser shall not be bound to accept or pay for the Goods unless the same is specified in the Purchaser's Purchase Order.

2.2 Unless the Purchaser agrees otherwise in writing, the price shall be that which is quoted on the purchase order and includes delivery charges if applicable

2.3 Payment for the Goods, once supplied under the Contract, will be made within 60 days from the date of receipt of the Supplier's valid, correctly calculated and addressed invoice unless otherwise agreed in writing by the Purchaser or specified on the front of the purchase order

2.4 Failure to comply with the instructions hereunder will delay payment. Such delay will not however affect the Purchaser's rights to any cash discount to be allowed on the price of Goods supplied under the Contract

### **3. Documents**

3.1 Delivery Note: All Goods shall be accompanied by a detailed delivery note stating the Purchase Order number the delivery note number and the date and number of any relevant delivery schedule and giving identification particulars of any Goods supplied, including the Supplier's part number, drawing number or Specification number and the issue and/or modification letters or numbers where these are known to the Supplier.

3.2 Invoice: The invoice shall state the Purchase Order number. The part number, the delivery note number and the date and number of any relevant delivery schedule shall be stated if any have been quoted to the Purchaser. Otherwise a sufficiently detailed description to enable the Goods to be identified shall be given.

3.3 Where any charge is made for Value Added Tax, the invoice shall be in the form as laid down from time to time by H.M. Customs & Excise for Value Added Tax purposes

#### **4. Packing and carriage and delivery**

4.1 Transit and offloading shall be at the Supplier's risk and no charges for packing, carriage or insurance will be allowed unless so specified on the Purchase Order

4.2 Unless otherwise agreed in writing the Goods are to be delivered carriage paid to the address designated by the Purchaser

4.3 All Goods must be delivered during normal working hours (9:00 - 17:00) unless otherwise stated, and until delivery will be at the Supplier's risk. Unless the Purchaser expressly agrees otherwise in writing containers and packing must be supplied free but will be returned, if required, at the Supplier's risk and expense.

4.4 Time shall be of the essence in respect of delivery dates.

4.5 Goods not delivered to the specified delivery location may be rejected and will remain at the Supplier's risk.

4.6 All personnel delivering goods to the Purchaser should have appropriate ID (passport or photo driving licence accompanied by paper licence) available for inspection.

4.7 Any costs associated with a failed or repeat delivery resulting from non compliance with the delivery requirements of the Airport, must be borne by the supplier.

4.8 All vehicles passing through security checkpoint may be subject to a visual search in order to meet DFT requirements. All items that cannot be visually checked must be removed from the vehicle and screened through x-ray.

#### **5. Amendments in Specification**

The Purchaser may at any time make changes in writing relating to the Contract. If such changes result in a variation in cost of, or time required for, the performance of the Contract, an equitable adjustment shall be made to the price, delivery schedule or both. Any claim or adjustment by the Supplier must be approved by the Purchaser in writing before the Supplier proceeds with such change

## **6. Samples/Pre Delivery Inspection**

6.1 The Purchaser reserves the right to request sample products on a trial basis, at no cost, which will be retained by the Purchaser until the goods are completed and equipment installed verified through testing as commissioned and fully functional.

6.2 Where samples have been provided, the subsequent provision of goods under the contract must meet that same standard.

6.3 No inspection or testing by the Purchaser pursuant to this clause shall imply any acceptance of the Goods/equipment by the Purchaser or in any way relieve the Contractor of its obligations and duties under the Contract or otherwise

## **7. Property and Risk**

7.1 Property and title in respect of the goods/equipment will pass to the Purchaser at the time and place of delivery (being defined as the obtaining of an authorised signatory signifying acceptance) unless otherwise specifically agreed.

7.2 Where any advance payment or progress payment is made by the Purchaser, property, but not the risk, in any materials purchased or allocated by the Contractor for the purpose of this Contract shall immediately vest in the Purchaser.

7.3 Risk will not transfer until the goods have been inspected and signed-off by the Purchaser in accordance with the Contract.

## **8. Quality**

Without prejudice to any other Contract Terms:-

8.1 All Goods supplied will comply in every way with the specification, drawings, samples or other descriptions

8.2 Any Goods supplied or installed under the contract will be fit for purpose and shall be so formulated, & designed, constructed, finished and packaged as to be safe and without risk to health and comply with all British and European standards or other recognized standards of health and safety including the health and safety requirements of the Health a safety at Work etc. Act 1974, the Consumer Protection Act 1987, the General Product safety Regulations 1994 and any other statuses or regulations governing or affecting the Goods. Any Goods which are (or will be upon supply in the European Community) within the scope of CE marking requirement of any relevant EC Directive or local laws implementing the same shall satisfy the relevant requirements and shall bear a properly affixed CE mark, have a certificate

of Conformity and all necessary technical specifications .Goods must meet all relevant health and safety requirements applicable to Goods both in the state or form supplied to the Purchaser and when combined with other goods. It is the responsibility of the Supplier to acquaint itself with the purpose for which the Goods are to be supplied.

8.3 All Goods will be supplied with full instructions for their proper use maintenance and repair and with any necessary warning notices clearly displayed

8.4 Without prejudice to any other of the Contract Terms the Purchaser will have the benefit of any guarantee given by the Supplier

## **9. Executive manufacture and confidentiality**

The Supplier will not either during the period of the Contract or at any time thereafter:-

9.1 manufacture or procure to be manufactured for any person or company other than the Purchaser any goods to designs or specifications originated or owned by the Purchaser; or

9.2 disclose to any person or company any manufacturing process, design, negative, engineering drawing or data, information, or any other trade secret of whatever nature belonging to the Purchaser or relating to the Purchaser or to the Goods being supplied to the Purchaser under the Contract to the extent that the Goods are supplied to designs or specifications originated or owned by the Purchaser Provided Always that this restriction shall not apply to any information

9.2.1 which at the time of disclosure is in the public domain or which becomes public after disclosure otherwise than through the actions of the Supplier

9.2.2 which the Supplier can show by Satisfactory proof to have been in its possession prior to disclosure hereunder

## **10. Disposal of Own Label Goods**

In the event of the non-delivery to the Purchaser, or the return to the Supplier for whatever reason, of any Goods or other materials which are manufactured, packaged or labelled in such a manner so as to identify them in any way with the Purchaser, the Supplier shall not under any circumstances dispose of those Goods or Other materials to a third party without the prior written consent of the Purchaser. Any specific instructions given by the Purchaser in respect of such disposal shall be strictly adhered to by the Supplier

## **11. Right to Reject**

11.1 Without prejudice to any other rights possessed by the Purchaser, the Purchaser shall be entitled to reject any Goods supplied to the Purchaser at any time within 12 months of use of the Goods by the

Purchaser where the Supplier is in breach of any of the Contract Terms and irrespective of date of payment therefore

11.2 Rejected Goods will be returned by the Purchaser to the Supplier at the Supplier's expense

## **12. Right to Terminate**

The Purchaser shall be entitled to terminate the Contract without liability to the Supplier and without prejudice to the Purchaser's other rights in any of the following circumstances:-

12.1 The Supplier fails to deliver the Goods on the date agreed or in any delivery schedule time being of the essence

12.2 The Goods supplied by the Supplier are such that they do not comply in every way with the contract

12.3 Any proceedings have been commenced or action taken relating to the insolvency or possible insolvency of the supplier

12.4 Any breach by the Supplier of a term of his Contract

Upon termination howsoever arising any outstanding payments in advance made by the Purchaser shall be immediately repayable by the Supplier

## **13. Patents and Designs**

13.1 Copyright (and all other intellectual property rights) in respect of materials, drawings, designs, specifications, software, plans or other document or material created and/or developed by either party shall belong to the Purchaser and the Contractor hereby assigns its rights created in such information to date and by way of future assignment all its rights in the same to date and by way of future assignment all its rights in the same to the purchaser.

13.2 The Contractor warrants that the supply of materials/products in relation to this agreement will not infringe any intellectual property right in any country and undertakes to indemnify the Purchaser against all judgments, decrees orders, damages, costs, and expenses arising from actual or alleged infringements of the same

## **14. General**

14.1 This Contract must be performed by the Supplier personally and no part of it may be assigned, novated, sub-let or sub-contracted by the Supplier without the Purchaser's written permission

14.2 The Purchaser reserves the right to novate or assign the contract.

14.3 Failure by the Purchaser to enforce any of the Contract Terms will not be construed as a waiver of its rights

14.4 This Contract will be construed and operate in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts

## **15. General Duties of Manufacturers/Suppliers**

15.1 Designers, manufactures, importers and suppliers of goods to the airport are required to meet the requirements of all parts of section 6 of the Health and Safety at Work etc Act 1974. In particular, appropriate information about the article concerning its proper use, its testing and any conditions necessary to ensure that when in use it will be safe and without risk to health.

## **16.0 Data Protection**

16.1 Both parties warrant that they will duly observe all of their obligations under the General Data Protection Regulations 2018 which arise in connection with this Agreement.

## **17.0 Defect Liability**

17.1 A defects liability period of 12 months shall apply and will commence following handover/commissioning, which, where agreed, may incorporate testing and sign off, prior to commissioning.

## **18.0 On Site Compliance**

18.1 The Contractor is required to comply, at all times, with all byelaws, operational requirements and insurance requirements as laid down by the Purchaser. Copies of such documentation outlining the obligations upon the Contractor are available from the Purchaser upon request .

## **19.0 Anti-Corruption**

19.1 The Contractor shall at all times comply with all applicable laws, statutes, regulations and other generally accepted rules and standard of business conduct relating to anti-bribery and anti-corruption, including, but not limited to, the Bribery Act 2010 (**Anti-Bribery Requirements**), and the Contractor shall not engage in any activity, practice or conduct which would constitute an offence under Bribery Act 2010. The Contractor shall also have in place, keep and enforce, as appropriate, throughout the term of this Agreement the Contractor's own adequate procedures, to ensure compliance with the Anti-Bribery Requirements

19.2 Where the Contractor identifies a Conflict of Interest, or risk of Conflict of Interest they are to notify the Airport of the conflict and what steps they are taking to mitigate the risk.

**20. Right to Audit**

20.1 Birmingham Airport shall have the right to audit to ascertain the amount of income derived from providing works, goods and services to third party organisations at Birmingham Airport.

20.2 The clause also gives Birmingham Airport the right to obtain copies of quotations that are provided to third parties (main contractors, sub-contractors, concessions and tenants) in respect of the supply of goods, services and works.

**21.0 Slavery Act**

21.1 The Contractor confirms that in entering into this agreement with the Airport they have taken the necessary measures to ensure that both its own organisation and its supply chain are compliant in all respects with the Modern Slavery Act 2015.

**22.0 Governing Law**

22.1 This Agreement shall be governed by and construed in accordance with English Laws and the parties submit to the exclusive jurisdiction of the English Courts.

The End