
GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1. **INTRODUCTION**

- 1.1. The terms and conditions of purchase and sale set out herein ("**Terms and Conditions**") shall apply to all contracts for the procurement and supply of goods ("**the Goods**") and services ("**the Services**") by the Supplier to FEURY IMAGE GROUP, its subsidiaries and any company in the FEURY IMAGE GROUP ("**the Company**"), including where the contract has arisen from a purchase order ("**Purchase Order**") issued by the Company and accepted by the Supplier, including any such Purchase Order issued by the Company in response to a quotation from the Supplier.
- 1.2. The Company and the Supplier shall collectively be referred to as "**the Parties**" and "**Party**" shall refer to any one of them.

2. **WHOLE AGREEMENT**

- 2.1. The agreement between the Parties comprises of (a) these Terms and Conditions and (b) the provisions of any Purchase Order (collectively "**the Agreement**").
- 2.2. The Agreement is the sole record of the agreement between the Parties and may only be varied or waived in a written, signed document between the Company and the Supplier. Where however the Parties have concluded and signed a principal contract, the terms as contained in such contract shall take precedence over these Terms and Conditions.
- 2.3. The Supplier's standard terms and conditions and/or those contained in the Supplier's credit application, notwithstanding their reference to or inclusion in any quotation, order, invoice, or otherwise, shall not be binding on the Company.
- 2.4. No undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement and/or any Purchase Order shall be binding on either of the Parties.
- 2.5. The Parties agree that the Supplier is an independent contracting party and that the Agreement does not constitute a contract of agency, representation, employment or partnership with the Supplier. The Supplier shall not incur any liability whatsoever for or on behalf of the Company.

3. **PURCHASE ORDERS**

- 3.1. Purchase Orders will be system generated and placed by the Company electronically or by faxing or emailing a copy thereof to the Supplier, and may contain details of the goods ordered (including the specification), details of the Services to be rendered (including scope of service and service levels) and confirmation of the Price.
- 3.2. Should there appear to be any discrepancy or ambiguity in description or quantities in a Purchase Order, the Supplier shall immediately submit the matter to the Company for its decision before proceeding to execute the Purchase Order.
- 3.3. Amendment to the Purchase Order shall be subject to the Company's prior written approval and the Supplier's acceptance. No amendment to a Purchase Order will be valid unless agreed to in writing by both Parties and incorporated in a revised and duly issued Purchase Order.
- 3.4. Purchase Orders may be cancelled by the Company at any time provided that the Company shall pay the Supplier for costs reasonably incurred up to the date of cancellation. The Supplier will use all reasonable and practical endeavours to mitigate its losses in this regard.

4. **PRICE AND PAYMENT**

- 4.1. The price for the Goods and/or Services ("**the Price**") shall be the price specified in the Purchase Order and shall be paid to the Supplier in the amount as indicated therein. Unless expressly stated to the contrary in the Purchase Order:
 - (a) the Price shall be exclusive of VAT and shall include standard packaging, delivery and installation (where applicable).
 - (b) no additional charges of whatever nature shall be recoverable from the Company unless the Supplier has, prior to the execution of the Purchase Order, obtained the Company's agreement in writing on such additional charges.
- 4.2. Price amendment shall be subject to agreement and acceptance by the Company in writing. Should the Purchase Order be issued on a basis of "price to be advised or agreed" or "estimate price", "subject to change" or any other similar description, the Purchase Order shall

stipulate the agreed terms applicable in this respect.

- 4.3. No invoice shall be binding on the Company unless supported by a valid Purchase Order issued by the Company.
- 4.4. Payment shall be made in accordance with the terms in the Purchase Order.

5. OWNERSHIP AND RISK IN AND TO THE GOODS

- 5.1. Where the Goods will be **delivered** by the Supplier:
 - (a) Ownership of and risk in and to the Goods shall pass to the Company upon the physical delivery or the installation thereof at the Company's premises as set out in the Purchase Order.
- 5.2. Where the Goods will be **collected** by the Company:
 - (a) Ownership of and risk in and to the Goods shall pass to the Company upon the physical collection thereof by the Company.
- 5.3. The Company shall have the right to inspect the Goods and to measure progress on the execution of the Services at all reasonable times and to reject Goods and/or Services that do not comply with the terms of the Agreement. Any inspection, checking or approval by the Company shall not relieve the Supplier from any obligation under the Agreement.

6. WARRANTIES BY SUPPLIER

- 6.1. The Supplier warrants that (a) the Services will be rendered in an efficient, workmanlike, prompt, professional, hygienic and safe manner, in accordance with good industry practice and (b) the Supplier shall exercise that degree of skill, care and diligence which could reasonably and ordinarily be expected from a skilled and experienced operator complying with all applicable laws, engaged in the same or a similar type of undertaking.
- 6.2. The Supplier warrants that its premises, its production and packaging systems, processes, machinery, facilities, Goods, Services, ingredients and materials comply with all relevant laws and industry standards, special dietary certification (where applicable), including, without limitation, all laws relating to foodstuffs, food safety, consumer protection, occupation health and safety, and environmental laws.
- 6.3. The Supplier warrants that Goods shall (unless otherwise stated in the Purchase Order) be new, merchantable, of agreed quality and description, in working order, fit for their intended purpose and free from contaminants, defects in materials, workmanship and design and shall be usable and durable for a reasonable period of time.
- 6.4. The Supplier warrants that the Goods are not subject to any lien, hypothec, pledge, mortgage, notarial bond, judicial attachment or other encumbrance and that the Supplier is entitled to transfer ownership thereof to the Company.
- 6.5. The Supplier warrants that there are no circumstances, facts or reasons which are known, or ought to be known by the Supplier, which should have been disclosed to the Company and which would have influenced the Supplier's decision in appointing the Supplier to supply the Goods and/or Services.

7. SUPPLIER'S GENERAL OBLIGATIONS

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- 7.1. The Supplier shall furnish the Company with copies of all relevant certification in respect of special medical requirements e.g. PPC and medical equipment and shall comply with the requirements of the relevant authorities and bodies in respect of such certification.
- 7.2. The Supplier shall refrain from any conduct which may be detrimental to the image, good name and reputation of the Company.
- 7.3. The Supplier shall supply the Company with any information or documentation relating to the Goods and/or the Services which it requires within a reasonable time, including any reports which may be requested from time to time in the manner, format and frequency required;
- 7.4. The Supplier shall comply with all applicable laws including relevant statutes, ordinances, by-laws and regulations having any bearing on the Agreement and will obtain all necessary licenses, permits and approvals that it requires to perform its obligations and shall ensure that its employees do the same.
- 7.5. The Supplier shall take all reasonable steps to ensure that Goods and/or Services are delivered timeously without any undue delay acknowledging that time is of the essence in the performance of its obligations under this Agreement.
- 7.6. The delivery of the Goods / Services shall take place as specified by Company in the Purchase

Order. Any specified time limits are of the essence and binding. Without prejudice to any rights of Company, Supplier shall immediately give notice to Company if it becomes aware or anticipates that (a) it will be unable to supply any Goods / Services at the agreed time; (b) the Goods / Services do not comply with the Agreement.

- 7.7. If any Goods / Services do not comply with the Agreement for any reason Company may, at its discretion:
- (a) reject the non-conforming Goods / Services;
 - (b) terminate the Contract in whole or in part;
 - (c) require Supplier to re-supply conforming Goods / Services in place of any non-conforming Goods / Services at Supplier's risk, cost and expense;
 - (d) require Supplier to repair the non-conforming Goods or procure such repair itself through an alternative supplier;
 - (e) require Price reduction;
 - (f) source replacement Goods /Services from an alternative supplier, and Supplier shall promptly pay to Company the difference between the Price and the purchase price(s) agreed with the alternative supplier; and
 - (g) claim damages and specific performance

8. INDEMNITY

The Supplier indemnifies and absolves the Company from any claims, damages, losses and any other liability (whether jointly or individually) arising from any cause whatsoever or based on any ground of liability (including liability without fault) to the extent that such liability is attributable, whether wholly or in part, to any defect or deficiency in any of the Goods/Services supplied by the Supplier or is due to the Supplier's failure to comply strictly with the provisions of this Agreement and/or applicable laws. The indemnification further applies to any claims by a third party based on a defect in specialized advice or safety materials provided by Supplier.

9. PRIVACY AND DATA PROTECTION

9.1. The Supplier shall at all times during the performance of its obligations in terms of these this Agreement ensure that (a) no data collected from any person during the supply of the Goods/Service is sold, disclosed, commercially exploited, or used in any way other than as expressly authorised by the Company and (b) ensure that it processes data for only the express purpose for which it was obtained.

9.2. The Supplier consents to the collection, processing and further processing of its personal information (including personal information contained in electronic communications) by the Company for the purposes of implementing this Agreement and facilitating the supply of Goods and/or Services.

10. INTELLECTUAL PROPERTY RIGHTS

10.1. The Supplier warrants that it's supply of Goods and/or Services to the Company does not infringe any intellectual property rights and hereby indemnifies and holds harmless the Company against any loss, damages or expense sustained by the Company as a consequence of any breach of this warranty.

10.2. Any and all intellectual property owned, developed or acquired by Company shall remain the sole and exclusive property of the Company.

10.3. Supplier assigns all rights and title and associated intellectual property rights in the Goods and Services to Company.

11. CONFIDENTIALITY

The Supplier agrees to treat as strictly confidential the operations, business and affairs of the Company and not to divulge any information relating thereto to any third party, agent or employee without the prior written consent of the Company, save as is required by law.

12. BREACH

12.1. In the event of either Party breaching any of its obligations under the Agreement, and such Party failing to remedy such breach within a period of fourteen (14) days of receipt of written notice from the aggrieved Party calling upon it to do so, the aggrieved Party shall be entitled without further notice to (a) cancel the Agreement and/or cancel the Purchase Order and (b) claim specific performance, in either event without prejudice to the aggrieved Party's rights to claim damages or to enforce any other remedy to which it may be entitled whether in terms of the Agreement or in law.

12.2. In addition the Company shall be entitled to cancel the Agreement and/ or any Purchase Order

forthwith if:

- (a) the Supplier is either provisionally or finally wound-up/sequestered or seeks to make a compromise with its creditors; or
- (b) the Supplier is provisionally or finally liquidated, is placed under judicial management or becomes financially distressed; or
- (c) the Supplier commits a breach of the Agreement which cannot be rectified; or

12.3. In the event of any legal proceedings against the Supplier, the Company shall be entitled to recover its legal costs on an attorney-and-client scale.

13. FORCE MAJEURE

13.1. "**Force Majeure Event**" means an event that prevents or delays a Party from being able to perform an obligation other than the payment of money under this Agreement, where such event would constitute force majeure, such as wars, insurrections, strikes, acts of God, governmental actions or controls, water restrictions or other causes beyond the control of a Party;

13.2. Should any Party be prevented by reason of Force Majeure from performing its obligations in terms hereof, then such failure shall not be regarded as a breach of its obligations in terms hereof provided that:

- (a) the Party hereto subject to Force Majeure shall give prompt notice to the other Party hereto of the nature and estimated duration of the Force Majeure concerned;
- (b) the Parties hereto shall co-operate and collaborate together and use all reasonable efforts to overcome the Force Majeure concerned and/or nullify its effect; and
- (c) any suspension of performance within the provisions of the above shall be limited to the period during which such inability shall exist and the period of this Agreement shall be interrupted by the period of such suspension.

13.3. If the aforementioned inability substantially or permanently prevents the continued performance by either Party of its obligations in terms of this Agreement for a period exceeding fourteen (14) consecutive days, then either Party shall be entitled, by giving notice in writing, to terminate this Agreement in respect of any of its obligations still to be performed hereunder.

14. NOTICE

14.1. Any notice will be in writing and addressed to the party at the address stated in the front of the Purchase Order. Notices will be deemed given and effective (i) if personally delivered, upon delivery; (ii) if sent by an overnight service with tracking capabilities, upon receipt; (iii) if sent by fax or electronic mail, at such time as the party which sent the notice receives confirmation of receipt by the applicable method of transmittal; or (iv) if sent by certified or registered mail, within five days of deposit in the mail.

15. GENERAL

15.1. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Connecticut, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Connecticut or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

15.2. Each of the provisions of the Agreement shall be considered as separate terms and conditions. In the event that the Agreement is affected by any legislation or any amendment thereto, or if the provisions herein contained are by virtue of such legislation or otherwise held to be illegal, invalid or unenforceable, then any such provisions shall be ineffective only to the extent of the illegality, invalidity or unenforceability and each of the remaining provisions hereof shall remain in full force and effect as if such illegal, invalid or unenforceable provision was not a part hereof.

15.3. IN NO EVENT WILL COMPANY BE LIABLE TO SUPPLIER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF, OR IN CONNECTION WITH, THE PURCHASE ORDER, WHETHER OR NOT COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.