

SHORT FORM STANDARD TERMS AND CONDITIONS OF SUPPLY

IARNROD EIREANN STANDARD TERMS AND CONDITIONS FOR SUPPLY CONTRACTS

1. Definitions

- 1.1 The following words and expressions shall have the following meanings.
- "Contract" includes (where applicable) IE's invitation to tender for the Goods, the Contractor's Tender, as accepted by IE, the Conditions of Tendering, the agreed Specification, the agreed Contract Drawings and these Conditions of Contract.
- "Contractor" means the Tenderer whose Tender has been accepted.
- "Delivery Period" means the agreed period within which the Goods are to be delivered.
- "Force Majeure" means, in relation to any party to this Contract, any circumstances beyond the reasonable control of that party.
- "Goods" means the Goods to be supplied under the Contract.
- "IE" means Iarnrod Eireann - Irish Rail, Connolly Station, Dublin.
- "Inspecting Officer" means any person appointed by IE for this purposes.
- "Month" means calendar month.
- "Point of Delivery" means such locations as IE may nominate to the Contractor.

2. Supply

- 2.1 The Contractor shall supply the Goods at the prices agreed by the Contractor with IE, in such quantities as IE shall from time to time order in writing.

3. Assignment and Sub-Contracting

- 3.1 The Contractor may not transfer or assign, directly or indirectly, to any person whatever, any portion of this Contract without the prior written permission of IE.

4. Warranties and Liabilities

- 4.1 The Contractor warrants that the Goods will :
- correspond with their description;
 - be of sound materials and workmanship;
 - be equal in all respects to samples, patterns, drawings or specifications provided by either party;
 - be capable of any standard of performance specified by IE;
 - be fit for any particular purpose made known to the Contractor by IE either expressly or by implication.
- 4.2 Neither the facilities for inspection and test before delivery (whether or not availed of) nor acceptance of the Goods, nor any payment made by IE shall relieve the Contractor of its obligation to comply with this clause or with clauses 20 and 21.

5. Inspection

- 5.1 The Inspecting Officer may inspect and test, the Goods (including materials and other components) during manufacture or processing.
- 5.2 The Contractor shall provide for the Inspecting Officer access at all reasonable times to all places where the Goods or any components are being made or kept, and shall procure the provision of all facilities as may be reasonably required for this purpose.
- 5.3 Following an inspection, the Inspecting Officer may inform the Contractor in writing of any areas in respect of which he is of the opinion that the Goods do not comply with the Contract, and the Contractor shall take all necessary steps to ensure such compliance.

6. Export Licence and other Documents

- 6.1 The Contractor shall, at its own expense, procure any export licence or other authorisation necessary for the exportation of the Goods or to secure their transit through any country, and shall provide the certificate of origin and any other documents which IE may require for the purpose of taking delivery of the Goods.

7. Transport Charges and Duties

- 7.1 The Contractor shall bear all costs, charges and expenses of or incidental to the carriage of the Goods to the point of delivery other than as provided in sub-clause 7.2.
- 7.2 IE will pay customs duty or tax levied in Ireland in respect of Goods which are imported and dispatched directly to IE from another country in the course of their delivery to IE.

8. Packing

- 8.1 The Contractor shall at its expense provide suitable preparation and packing of the Goods having due regard to their nature.

9. Delivery and Acceptance

- 9.1 The Contractor shall deliver the Goods, carriage and insurance paid, to IE within the relevant Delivery Period to the Point of Delivery.
- 9.2 Title in the Goods shall pass to IE on delivery, without prejudice to any right of rejection IE has under the Contract. Until delivery, Goods shall be at the risk of the Contractor.
- 9.3 If delivery of any order for the Goods is delayed for any period in excess of 4 weeks, IE may charge the Contractor 0.5 per cent of the total Contract or Order in respect of each week's delay in delivery, up to a maximum of 4 per cent of the total Contract price.

10. Accounts for Payment

- 10.1 The Contractor must raise an invoice in respect of any Goods supplied hereunder. Such invoice must quote the IE official order number and must be addressed to Accounts Payable, Iarnrod Eireann, Inchicore, Dublin 8.
- 10.2 Payment in respect of amounts due under this Contract shall be made at the end of the month following the month in which an invoice is received, correctly completed, save to the extent that any dispute arises thereout.

11. Patented Articles

- 11.1 Patented articles supplied under the Contract must be marked in accordance with the provisions of the Patents Act. The Contractor shall indemnify IE against any action, claim or demand for infringement of any patent rights in respect of any articles supplied under the Contract, or for royalties or damages in respect thereof.

12. Fair Wages

- 12.1 The Contractor shall observe all applicable employment legislation or regulations in force in Ireland from time to time during the course of this Contract including, without

limitation, any Employment Regulation Orders or Registered Employment Agreements.

13. Tax Clearance

- 13.1 No payment due under this Contract shall be made unless IE has in its possession at the time of such payment a current Tax Clearance Certificate from the Revenue Commissioners in respect of the Contractor.

14. Safety Statement

- 14.1 The Contractor shall produce to IE a copy of its safety statement relevant to the performance by the Contractor of this Contract, and shall ensure that it, its employees and agents abide by the terms of such safety statement.

15. Dangerous Substances

- 15.1 If the Goods or any part thereof consist of any dangerous substance or preparation, the Contractor shall include one copy of the appropriate Material Safety Data Sheet in the smallest packing unit in which the Goods are delivered.

16. Contractor's Default

- 16.1 If, after their actual delivery, the Goods or any portion thereof are found not to conform to the Contract, IE may reject such Goods by written notice to the Contractor.

- 16.2 If IE rejects any Goods, or the Contractor fails to deliver any Goods within the relevant Delivery Period, IE may require the Contractor by notice in writing, within the period stipulated in the notice, to replace the rejected Goods with Goods conforming to the Contract or to deliver the undelivered Goods (as the case may be), or may purchase substitute Goods elsewhere without notice to the Contractor.

- 16.3 Any additional expenditure which is incurred by IE in the purchase of substitute Goods, shall be paid by the Contractor to IE.

17. Training, Spare Parts and Information

- 17.1 The Contractor shall, where appropriate, provide IE personnel with training in the use and maintenance of the Goods.

- 17.2 The Contractor shall supply to IE spare parts necessary for the Goods at reasonable cost, not exceeding that charged under like circumstances to other customers of the Contractor. The Contractor authorises IE to negotiate with and purchase spare parts for the Goods directly from suppliers to the Contractor, free of any restrictions or impediments which may exist between the Contractor and suppliers to the Contractor.

- 17.3 The Contractor shall supply to IE free of charge all technical drawings service manuals and maintenance specifications with all relevant updating documents which relate to the Goods.

18. Termination of Contract

- 18.1 If the Contractor -
- 18.1.1 commits a material or fundamental breach of the Contract, or
 - 18.1.2 becomes bankrupt, makes any composition or arrangement with, or any conveyance or assignment for the benefit of, its creditors, enters into voluntary or compulsory liquidation, or if a receiver or examiner of any of its assets is appointed
- IE may, without prejudice to any other right or remedy it might have, terminate the Contract by giving the Contractor written notice to take effect on the day of its service on the Contractor or such other day as such notice may specify.
- 18.2 A breach of Contract committed in respect of any one order given by IE shall, provided such breach would entitle IE to terminate the Contract if that order constituted a separate Contract, entitle IE to terminate this Contract.

19. Waiver

- 19.1 No waiver by IE of any breach of this Contract by the Contractor shall be considered as a waiver of any subsequent breach of the same or any other provision.

20. Indemnity

- 20.1 The Contractor shall indemnify and keep indemnified IE from and against all actions, proceedings, costs, claims, damages and losses whatsoever suffered or incurred by IE (including, without limitation consequential loss in consequence of any breach or material non-performance by the Contractor of any representations, warranties, undertakings or obligations on its part contained in the Contract.
- 20.2 The Contractor shall indemnify and keep indemnified IE against all liability claims, damages, proceedings, and costs in respect of any damage to property of IE or any injury (including personal injury) to or the death of any person or loss of or damage to the property of any person caused or contributed to by any negligence, breach of duty, breach of statutory duty or other fault of the Contractor, its employees or agents.

21. Insurance

- 21.1 The Contractor shall effect a policy or policies of insurance with a company or companies approved by IE insuring the Contractor in respect of its liabilities on foot of this Contract, and shall submit a certificate of insurance to IE giving evidence of the required coverage before commencement of any work in connection herewith.

22. Force Majeure

- 22.1 Neither party shall be deemed to be in breach of this Contract, or otherwise be liable to the other, for any delay in performance or the non-performance of its obligations under this Contract, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party in writing, and the time for performance of that obligation shall be extended accordingly, provided that where any event of Force Majeure continues for any period in excess of four weeks, either party may terminate this Contract upon written notice to the other.
- 22.3 If at any time the Contractor claims Force Majeure in respect of its obligations with regard to the supply of the Goods, IE shall be entitled to obtain from any other person such quantity of the Goods as the Contractor is unable to supply.

23. Severance

23.1 If at any time one or more of the provisions of this Contract is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

24. Notices

24.1 Notices to be given hereunder may be served by IE by sending same by ordinary pre-paid post upon the Contractor at the address stated by the Contractor in his Tender .

25. Construction of Contract

25.1 The construction, validity and performance of this Contract shall be governed by the laws of the Republic of Ireland.