

Annexure A

The Order overleaf constitutes a contract between Intalek Ltd and the Supplier for the supply of the goods/services listed overleaf pursuant to the Order Conditions set out below and/or as on any special terms described or referred to overleaf. Intalek Ltd will only contract with the Supplier on this basis and these terms may only be varied by written agreement.

Order Conditions

1. Definitions

- (a) 'Client' means the client who has engaged Intalek to carry out the works for which the Goods/Services are required and who is identified in the Order;
- (b) 'Goods/Services' mean the materials, goods, equipment and/or services to be supplied by the Supplier to Intalek Ltd as described in the Order;
- (c) 'Order' means the contract for the supply of the Goods/Services between Intalek Ltd and the Supplier as set out above and incorporating these Order Conditions and any other documents referred to above;
- (d) 'Supplier' means the person, firm or company identified as such above;
- (e) 'Intalek' means Intalek Ltd and its assignees.

2. Price and VAT

Unless otherwise stated, the prices in the Order are fixed and not subject to fluctuation or escalation of any kind and are exclusive of Value Added Tax but inclusive of disbursements.

3. Payment

Unless otherwise stated in the Order, Intalek shall pay the sums payable under this Order to the Supplier within the following periods calculated by reference to the date of delivery of the Goods/Services or receipt of the Supplier's VAT invoice for the Goods/Services, whichever is later ("the Delivery/Invoice Date").

Where the Delivery/Invoice Date falls on or before the last day of the month, then payment shall become due on the last day of the following month ("the Due Date"). The final date for payment in relation to any sum which becomes due under this Order shall be 21 days from the Due Date. Intalek shall give notice specifying the amount (if any) of the payment made or proposed to be made by Intalek and the basis on which that amount was calculated.

Or

Intalek shall give notice (by way of a 'payless notice') specifying the amount of any payment to be withheld or deducted from the amount due, the ground or grounds for such withholding or deduction and the amount of the withholding or deduction attributable to each ground not later than 5 days prior to the Due Date or the date that the payment would have become due if (i) the Supplier had carried out his obligations under the Order and (ii) if no set-off or abatement was permitted by reference to any sum claimed to be due under one or more other contracts.

Provided that:

- (a) payments for partial shipments shall only be made where so stated in the Order; and
- (b) the terms of the Order may make the passing of any tests or inspections or the supply of any ancillary documentation a condition precedent to payment.
- (c) Evidence of adequate insurance is to be provided to indemnify Intalek against any loss.

4. Early Payment

Intalek may, at its sole discretion, make early payment of the price of any goods/materials/equipment forming part of the Goods/Services prior to their delivery. Intalek will only exercise such discretion in the event that:

(a) such items are ready for delivery, set apart at the premises where they are stored and clearly marked so as to identify that they are the property of Intalek; and

(b) Intalek is satisfied on the basis of documents, supplied by the Supplier that title in such items vests in the Supplier,

provided that Intalek shall be entitled to demand immediate return of any such early payment if at any time prior to delivery of such items either of conditions (a) or (b) above ceases to apply and provided further that such items shall remain at the Supplier's risk until delivery.

5. Time for Delivery/Performance

The Supplier shall deliver/performance the Goods/Services at the time or times stated or referred to in the Order or at such later time or times as may be instructed by Intalek. Time for delivery/performance of the Order is of the essence and the provisions of clause 14 shall apply in the event of any delay in delivery, provided that Intalek shall make a fair and reasonable extension of any such time if the Supplier is delayed by any breach or act of prevention by Intalek, including an instruction to vary design, quality or quantity of the Goods/Services. The Supplier shall notify Intalek immediately if at any time it becomes apparent that any stipulated time for delivery/performance of any Goods/Services may not be met for any reason.

6. Manner of Delivery

The Supplier shall deliver the goods/materials/equipment forming part of the Goods/Services to the destination and in the manner stated or referred to in the Order and shall at his own cost ensure the Goods/Services are securely packed and labelled in such a manner as to reach their destination in a condition acceptable to Intalek. All packaging shall comply with any relevant statutory requirements. Unless otherwise specified in the Order, Intalek shall not be responsible for delivery charges nor the cost of returning any packing cases, skids or other packing material.

7. Delivery from Overseas

Where goods/materials/equipment forming part of the Goods/Services are to be supplied from outside the United Kingdom the provisions of Incoterms 2010 shall apply in accordance with the contractual delivery term shown overleaf, provided that if no such term is shown then it shall be "CIF" (cost, insurance and freight) at the Supplier's expense to the delivery address stated in the Order; provided that where there is a discrepancy, conflict or inconsistency between the provisions of Incoterms 2010 and the terms of this Order, the terms of this Order shall take priority.

8. Supplier's Documents

The Supplier shall prepare at his own expense and submit to Intalek such further drawings and/or other information relating to the design, specification, installation, maintenance and repair of the Goods/Services as may be stated or referred to in the Order or as Intalek may reasonably require. The Supplier hereby grants Intalek an irrevocable, non-exclusive, royalty-free licence to copy and use such drawings and other information and to sub-licence others to do so, but only in connection with the development to which the Goods/Services relate and not for any other purpose. The Supplier hereby warrants that the exercise of the copyright licence for such purposes shall not infringe the rights of any third parties.

9. Variations

Intalek shall be entitled to issue instructions to the Supplier to vary the design, quality or quantity of the Goods/Services and no such instruction shall vitiate the Order. Such instructions shall be valued in accordance with the rates and prices stated in the Order or, if no such rates or prices are appropriate, at rates and prices which are fair and reasonable having regard to all the circumstances.

10. Right to Inspect

Intalek and all persons duly authorised by them shall at all reasonable times have access to any workshops or other places where the Goods/Services are being prepared, assembled or stored for the purpose of inspection of the Goods/Services.

11. Sub-letting

The Supplier shall not without the prior written consent of Intalek sub-let any work in connection with the supply of the Goods/Services. Where the Supplier sub-lets such work such sub-letting shall not affect in any way the obligations of the Supplier in respect of the Order.

12. Supplier's Warranty

Without prejudice to any terms or conditions implied by law, the Supplier warrants that:

(a) the Goods/Services will comply with any specifications or performance requirements stated or referred to in the Order and any patterns or samples previously supplied by either party and accepted by the other;

(b) the Goods/Services will comply with any relevant statutory requirements and any relevant regulation or bye-law of any local authority or statutory undertaker or utilities or services Supplier with those systems the Goods/Services are to be connected;

(c) the Goods/Services will be fit for the purposes for which they are required by Intalek and/or the Client as made known to the Supplier;

(d) the Goods/Services (i) do not contain or specify for incorporation into the development to which the Goods/Services relate (as applicable) any of the materials identified as potentially hazardous in the Ove Arup publication "*Good Practice in Selection of Construction Materials*" (ii) comply with relevant British Standard specifications and codes of practice and good building practice current at the time of performance/delivery; and

(e) the Supplier has exercised and will continue to exercise all the reasonable skill, care and diligence which may be expected of a qualified and competent professional experienced in the provision of such similar services, in the performance of any services forming part of the Goods/Services.

13. Confidentiality

All drawings, designs, specifications and samples furnished by Intalek to the Supplier in connection with the Order shall be kept confidential by the Supplier and may be used only for the purpose of fulfilling the Order and may not be disclosed to third parties without Intalek's prior written consent. The Supplier shall, when requested and in any event on completion of the Order, promptly return to Intalek all such drawings, designs, specifications and samples.

14. Supplier's Liability

The Supplier shall be fully liable to Intalek for any damage, expense, liability or other loss whatsoever suffered by Intalek or for which Intalek incurs liability to a third party to the extent that the same arises out of or in connection with any breach of the terms of the Order or any negligence, omission, default or breach of statutory duty on the part of the Supplier or any sub-contractor or Supplier of his on any tier. Such liability shall include, but shall not be limited to, any such liability which Intalek may incur to the Client.

15. Professional Indemnity Insurance

The Supplier shall take out and maintain for a period from the date of commencement of the Works to 12 years after the date that practical completion is certified under the Principal Contract professional indemnity insurance in an amount of not less than the amount specified in the Purchase Order in respect of any breach of contract, breach of statutory duty, negligence, omission or other default on the Supplier's part in respect of any of its obligations arising out of this Purchase Order.

16. Property in the Goods/Services

Without prejudice to any right of rejection which Intalek may have, title in the Goods/Services shall pass to Intalek upon delivery of such Goods/Services or upon payment of the price for such Goods/Services, whichever is earlier.

17. Cancellation of Order

Intalek shall have the right to cancel the Order at any time by notice in writing to the Supplier. Landminster shall pay to the Supplier all such costs and expenses as may have been properly and reasonably incurred by the Supplier in connection with the Order prior to the date of cancellation, unless cancellation of the Order is due to the Supplier's default, including failure to comply with the time for delivery/performance, in which case the provisions of clause 14 shall apply.

18. The Construction (Design and Management) Regulations

The Supplier shall comply with the obligations imposed on him under the Construction (Design and Management) Regulations 2007 (or any subsequent revision of the Regulations), to the extent that they apply to the provision of the Goods/Services by the Supplier.

19. Assignment

The benefit of this Order may be assigned on a maximum of two occasions without the Supplier's consent but subject to the assignor giving notice of the assignment to the Supplier. The Supplier shall not be entitled to assign, charge or otherwise transfer the benefit of this Order.

20. Contracts (Rights of Third Parties) Act 1999

This Order is not intended to confer any rights on third parties pursuant to the Contracts (Rights of Third Parties Act) 1999.

21. Law and Disputes

The proper law of the Order is English law. The parties shall be obliged to make all reasonable efforts to settle any dispute arising out of or in connection with the Order by negotiation, but any such dispute not so resolved shall be settled by litigation in the English courts subject to the right of either party to refer any dispute to Adjudication. Any such Adjudication is governed by the Statutory Scheme and the Adjudicator is to be nominated by the President of the RICS.