

General Terms and Conditions of Procurement

Version 4.0 9th December 2013, articles 1 - 21



Article 1. Definitions

1. The following terms and expressions bear the meaning assigned to them for the purposes of these General Terms and Conditions of Procurement:
2. Instructing Entity: CRH GROUP PROCUREMENT SERVICES LIMITED (registered number 19458), which has its registered office at 42 Fitzwilliam Square West, Dublin 2 and its principle place of business at Building 2, Fortunestown, Tallaght, Dublin 24 or any of its Affiliates
3. Supplier: any contracting party to the Instructing Entity, as well as any of such Supplier's employees and/or subcontractors or agents engaged by the Supplier for the purposes of supplying Goods and/or Services to the Instructing Entity;
4. Parties: the Instructing Entity and the Supplier;
5. Purchase Order: The standard Instructing Entity document which may include or have attached to it a statement of work describing the Goods and/or Services to be provided by the Supplier, the period in which payment shall become due and which provides a maximum value payable by the Instructing Entity to the Supplier;
6. Supply: the placement of the (1) or more Goods in the possession or at the disposal of the Instructing Entity and their installation or assembly if necessary and/or the provision and delivery of the agreed Services;
7. Goods: any tangible objects which the Supplier is to supply to the Instructing Entity;
8. Services: any work that is to be carried out by the Supplier for the Instructing Entity;
9. Affiliates: in relation to CRH Group Procurement Services Limited, its parent company CRH plc or any company which is directly or indirectly controlled by that parent company, any other company as may be agreed between the Parties.

Article 2. Scope of application

1. These General Terms and Conditions of Procurement and the relevant Purchase Order issued to the Supplier by the Instructing Entity, shall apply exclusively in respect of all requests, offers, Purchase Orders, agreements and other legal relationships concerning the supply of Goods and/or the provision of Services to the Instructing Entity by the Supplier. Where it is agreed that the Supplier shall supply Goods and/or Services, the Goods and/or Services to be supplied, the price payable and any other terms agreed between the Parties shall be set out in the Purchase Order. All Purchase Orders shall be subject to and be deemed to incorporate these General Terms and Conditions of Procurement.
2. In the event of any conflict between the provisions of these General Terms and Conditions of Procurement and a Purchase Order, the latter shall prevail.
3. The Instructing Entity may amend these General Terms and Conditions of Procurement. Any amendment shall come into effect thirty (30) days after the Instructing Entity notifies the Supplier in writing of such amendment.
4. The Supplier shall be deemed to have accepted these General Terms and Conditions of Procurement upon receipt by it of a Purchase Order from the Instructing Party. Any additional terms proposed by the Supplier, whether orally or in writing shall be deemed rejected by the Instructing Entity and shall not form part of any agreement between the Parties. The Supplier agrees that its standard terms and conditions do not apply to any agreement between the Parties or to these General Terms and Conditions of Procurement, nor to any Purchase Order issued by the Instructing Entity to the Supplier.

Article 3. Validity of offer and conclusion of Purchase Order

1. Any offer made by the Supplier shall be irrevocable for a period of three (3) months after it is received by the Instructing Entity, unless the Parties expressly agree a different period in writing. In the case of a tendering process, this period shall commence on the date on which tenders close.
2. Any Purchase Order shall come into effect by virtue of the Instructing Entity accepting an offer from a Supplier by means of a Purchase Order signed in writing by an authorised representative of the Instructing Entity.
3. In the event that the Supplier does not make an offer to the Instructing Entity, a Purchase Order shall come into effect by virtue of the Instructing Entity placing a Purchase Order with the Supplier.
4. In the event that the Supplier discovers an error or discrepancy in a Purchase Order, it shall immediately notify the Instructing Entity of such fact and request clarification before it proceeds with execution, production or supply of any Goods and/or Services.
5. As long as a Supplier has commenced work on the fulfilment of a Purchase Order placed by the Instructing Entity, the latter may cancel or amend that order free of charge at any time.

Article 4. Supplier's obligations

1. Any Purchase Order issued by the Instructing Entity shall incorporate the following documents:
 - a. these General Terms and Conditions of Procurement;
 - b. any specifications applicable to a Purchase Order and any related drawings, as well as any official report, table(s) of modifications, explanations and/or variations relating to the foregoing.
2. Furthermore, the Supplier's obligations shall include, without limitation:
 - a. ensuring that Goods are delivered and Services are provided in accordance with the relevant Purchase Order and any applicable specifications and using the best workmanship and proper materials;
 - b. carrying out any directions, instructions and/or orders issued by the Instructing Entity;
 - c. ensuring that the agreed work continues in the event that any personnel deployed by the Supplier are sick, on holiday leave or are absent for any other reason. The Supplier shall ensure sufficient personnel are deployed at all times for the purposes of carrying out all of the relevant work;
 - d. ensuring strict compliance with all laws applicable to the Supplier's personnel who are employed and/or engaged for the purpose of the relevant Purchase Order;
 - e. where the Supplier is supplying Services to the Instructing Entity, the Supplier warrants that it has the necessary skill to perform the Services and will provide the Services using reasonable skill and care;
 - f. where the Supplier is supplying Goods to the Instructing Entity, the Supplier warrants that such Goods will be fit for the purpose for which they are required and shall be free from defects in workmanship and/or design;
 - g. keeping proper records in respect of every Purchase Order so that they are capable of being audited by the Instructing Entity;
 - h. taking out required insurances and insuring the Supplier's equipment and materials in its own name.
3. The Supplier shall be required to familiarise itself with the policies and procedures and instructions of the Instructing Entity and its personnel. Furthermore, the Supplier shall have a duty to comply with all relevant laws relating to health, safety and the environment, as well as to obey all of the Instructing Entity's rules and instructions. In addition, the Supplier must comply with the 'CRH Code of Business Conduct' (page 11) and the 'CRH Ethical Procurement Code'.
4. The Supplier undertakes to ensure that all of its employees, subcontractors and/or agents are made aware of the Supplier's obligations in accordance with these General Terms and Conditions of Procurement and procure compliance with same.
5. Furthermore, the Supplier shall also have a duty to adopt all possible precautionary measures to prevent any injury to people and/or damage to property. In the event that the Supplier fails to comply with any directions and/or rules (concerning safety or otherwise), the Supplier shall indemnify the Instructing Entity for any costs, damages and/or loss arising as a result of such failure and the Instructing Entity may deny the relevant staff member further access to any of its premises.
6. In the event that the Instructing Entity has any objections concerning the performance or behaviour (or misbehaviour) of any member of the Supplier's employees or subcontractors or agents who may have been engaged for the purposes of executing the relevant Purchase Order, the Instructing Entity shall be entitled to reject such personnel and the Supplier concerned shall ensure that they are immediately removed from the Instructing Entity's premises and replaced by appropriate personnel within a reasonable period of time at its own cost.
7. In so far as is necessary or is requested, before commencing to fulfil a Purchase Order, the Supplier shall familiarise itself with the conditions prevailing in such of the Instructing Entity's buildings and grounds where the work is required to be carried out. The Supplier

- shall bear the risk and expense of any delays in the delivery of the Goods and/or the performance of the Services that are associated with such conditions.
8. The Supplier shall ensure that its presence in the relevant buildings and grounds do not interfere with or intrude upon the commercial operations of the Instructing Entity and/or any other party.

Article 5. Time of supply

1. Supply and/or the provision of the Services must commence at the time stipulated in the relevant Purchase Order, and must comply with a schedule to be provided by the Instructing Entity.
2. As soon as the Supplier knows or anticipates that Goods will not be delivered punctually or in accordance with an agreed schedule and/or that it will not be possible to provide the Services in a timely fashion, it shall notify the Instructing Entity of this in writing immediately, setting out the details relating to the delay. Such notice shall not affect the Supplier's obligation to comply with the relevant Purchase Order.
3. The Supplier's working hours shall coincide with times that are generally applicable in the workplace of the Instructing Entity. Overtime shall only be permitted, if the Instructing Entity consents to this in advance.
4. The Instructing Entity reserves the right to change the order or sequence in which the Goods and/or Services are to be supplied in accordance with a Purchase Order.

Article 6. Delivery

1. Delivery by the Supplier shall include all duties that are to be paid (Delivered Duty Paid based on Incoterms 2010) unless separate instructions in writing are agreed between the Parties.
2. The agreed delivery date shall be as stated in the relevant Purchase Order and time is of the essence. In the event that a Supplier fails to meet the date for delivery, the Supplier shall be deemed to be immediately in default and the Purchase Order shall be deemed cancelled by the Instructing Entity. The Instructing Entity shall not be required to serve any notice of default and/or termination of the Purchase Order on the Supplier.
3. Where the Instructing Entity cancels the whole or part of the Purchase Order in accordance with Article 6.2:
 - a) All sums payable by the instructing Entity in relation to the whole or part of the Purchase Order cancelled shall cease to become payable.
 - b) All sums paid by the Instructing Entity in relation to the whole or part of the Purchase Order cancelled shall be repaid to the Instructing Entity by the Supplier immediately;
 - c) The Instructing Entity shall be entitled to recover damages from the Supplier for any loss caused as a result of the Supplier's failure to deliver the Goods or Services by the agreed delivery date and/or as a result of the cancellation of the whole or part of the Purchase Order (including, without limitation, the Instructing Entity's expenditure reasonably incurred in obtaining the Goods or Services from another supplier.
4. All Goods shall be delivered to the Instructing Entity to the address specified in the relevant Purchase Order. The Supplier shall comply with all delivery instructions notified to it by the Instructing Entity
5. The Supplier shall bear the risk and expense involved in the transport of all Goods to the Instructing Entity.
6. The Supplier shall use all skill, care and diligence when using and/or maintaining any equipment belonging to the Instructing Entity. Should the Supplier fail to exercise such skill, care and diligence, the Supplier shall be liable for any loss or cost which arise from damage to the Instructing Entity's equipment.
7. The Supplier shall arrange any storage space for the Goods that it requires at its own risk and expense. Unless otherwise agreed, the Supplier shall bear the costs of any transport required for such purpose.
8. The Instructing Entity shall be entitled to postpone the time and date of delivery. In such a case, the Supplier shall pack the Goods properly, store them separately in a recognisable fashion, and look after, secure and insure them. The Instructing Entity shall be liable for the reasonable costs incurred by the Supplier in relation to any postponed delivery of Goods.

Article 7. Notices

1. Any notice required to be given by one Party under these General Terms and Conditions to the other will be deemed delivered to the other Party when delivered by hand, e-mail or registered post to the registered address of the other Party. The Supplier shall nominate personnel to the Instructing Entity that may be contacted at all hours in the event of an emergency.

Article 8. Packaging

1. All Goods shall be securely packed for shipment to the delivery address with as little additional weight as possible and in the smallest appropriate cubicle bulk possible consistent with safe carriage by ocean vessel, railroad, road or aircraft (as specified by the Parties) and insurance requirements. The Supplier shall ensure that all Goods supplied are properly protected against damage and/or deterioration in transit and are properly labelled with the destination address, contents and name of the Instructing Entity.
2. All products shall be packaged and stowed in a safe manner so as to enable Goods to be off loaded (by either the Supplier or the Instructing Entity) in a safe manner.

Article 9. Transfer of ownership and risk

1. Title to the Goods shall pass to the Instructing Entity or its Affiliate, as the case may be, when the Goods are delivered to the delivery address stated in the relevant Purchase Order, unless payment is made to the Supplier prior to delivery, in which case title in the Goods shall pass to the Instructing Entity or its Affiliate, as the case may be, upon such payment being made. Immediately upon receipt of such payment, the Supplier shall appropriate the Goods in favour of the Instructing Entity and keep them separate from all other goods in the possession of the Supplier and shall clearly mark the Goods as the property of the Instructing Entity.
2. The passing of title in the Goods from the Supplier to the Instructing Entity shall be without prejudice to the Instructing Entity's right to reject the Goods, where such Goods do not conform with the relevant Purchase Order and/or the specifications contained therein.
3. A Supplier shall bear the risk of goods being lost, stolen and/or damaged until such time as the Goods have been delivered into the possession of the Instructing Entity and are accepted by the Instructing Entity.
4. Any materials made available to the Supplier by the Instructing Entity shall remain the latter's property and the Supplier shall mark them as the Instructing Entity's property and keep them separate in a manner that ensures that this is recognisable to any third party.
5. Unless the Instructing Entity gives its prior approval in writing, the Supplier shall not be permitted to use the aforementioned materials nor to allow or arrange for any other party to do so in connection with any purpose other than effecting supply to or carrying out work for the Instructing Entity.

Article 10. Inspections

1. The Instructing Entity shall at all times be entitled to inspect, assess and/or test the Goods and/or Services (or arrange for this to be done) irrespective of the place where they are located.
2. When first requested to do so, the Supplier shall grant access to its grounds and buildings to the Instructing Entity or the latter's representative. The Supplier shall assist with any inspection free of charge.
3. In If it is necessary to repeat an inspection due to the fault of the Supplier, the Supplier shall be liable to the Instructing Entity for any costs incurred by the Instructing Entity as a result.
4. The Instructing Entity's inspection, assessment and/or testing shall not amount to an acknowledgement on its part that the Goods and/or Services to be supplied are of good quality or accepted by the Instructing Entity, nor shall it discharge the Supplier from any liability for failing to comply with its obligations.

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Version 4.0 9th December 2013, articles 1 - 21



Article 11. Assignment and Subcontracting

1. Each Purchase Order is personal to the Supplier and the Supplier shall not without the Instructing Entity's prior consent in writing assign, mortgage, charge or dispose of any of its rights in any contract or Purchase Order with the Instructing Entity or subcontract or otherwise delegate or outsource the performance of the Supplier's obligations. The Supplier shall remain fully liable for any Services and/or Goods provided by any subcontractor or sub-sub-supplier.
2. The Instructing Party may assign a Purchase Order to any Affiliate without the consent of the Supplier.

Article 12. Prices

1. The price for the Goods and/or Services shall be as stated in the relevant Purchase Order and unless otherwise stated, shall be exclusive of value added tax.
2. No additional charges will be paid by the Instructing Entity unless agreed in advance in writing by the Instructing Entity.

Article 13. Invoicing and Payment

1. Detailed invoices shall be issued by the Supplier to the Instructing Entity for Goods and/or Services that have been provided in accordance with the relevant Purchase Order on a monthly basis.
2. The Instructing Entity shall pay each invoice within the period stated in the Purchase Order after receipt of the relevant invoice.
3. All payments are contingent upon the Goods and/or performance of the Services conforming with the relevant Purchase Order and these General Terms and Conditions of Procurement to the satisfaction of the Instructing Entity.
4. The Instructing Entity shall be entitled to set off against sums otherwise due to the Supplier in accordance with an invoice any amount it is owed by the Supplier.
5. All payments shall be made without prejudice to the Instructing Entity's rights should the Goods and/or the Services provided prove unsatisfactory, defective or are not in accordance with the Purchase Order and/or these General Terms and Conditions of Procurement.
6. If the parties agree that the Supplier is to provide goods and/or services or resources in addition to those specified in a Purchase Order, then such agreement will be reflected in either an amended Purchase Order or a further Purchase Order.
7. Once a Purchase Order has been agreed by the Instructing Entity, the price for the Goods and/or Services shall be fixed.

Article 14. Termination and Force Majeure

1. If and in so far as the Supplier fails to fulfil any obligation pursuant or in some other way related to the relevant Purchase Order or fails to do so properly or within the time specified, the Instructing Entity may elect either to:
 - a. afford the Supplier the opportunity to comply with its obligations within a period that it stipulates; or
 - b. to immediately cancel all or part – such as at the Instructing Entity's discretion – of that Purchase Order by means of a written notice but without the need for any prior notice of default.Such entitlement to cancel the whole or part of a Purchase Order shall be without prejudice to the Instructing Entity's right to seek full compensation for any loss suffered and expenditure incurred due to the Supplier's non-compliance or to the latter's failure to ensure proper and timely compliance.
2. The Instructing Entity shall be entitled to immediately cancel all or part of a relevant Purchase Order without any notice of default in the event that the Supplier:
 - a. is granted a moratorium on payments;
 - b. becomes bankrupt;
 - c. business assets (or part thereof) or the Goods are attached;
 - d. enters into liquidation or petitions the High Court for the appointment of an examiner or an examiner is appointed to the Supplier's business or a receiver is appointed to the Supplier's business;
 - e. grants any benefit to a person comprising part of the Instructing Entity's business;
3. In the event that the Supplier is prevented from complying with a Purchase Order due to *force majeure* which continues for more than thirty (30) days, the Instructing Entity shall be entitled to cancel all or part of that Purchase Order without the need for any notice of default or judicial intervention.
4. Other than in circumstances constituting force majeure, in the event that the Instructing Entity cancels a Purchase Order (or part of it), it shall be entitled to keep the Goods and/or Services supplied to it to date along with any materials related to or intended for same, or to seek their surrender and to complete the Purchase Order (or arrange for this to be done) at the relevant Supplier's expense.
5. In the event that the Instructing Entity cancels a Purchase Order (or part of it), it shall not be liable to pay the Supplier any compensation in respect of such cancellation.

Article 15. Warranties

1. The supply of the Goods and/or the Services must comply in full with what is stipulated in the relevant Purchase Order, any applicable specifications and any requirements of the Instructing Entity.
2. The Supplier shall warrant that the Goods and/or Services supplied comply with good industry practice and all relevant laws.
3. Where a Purchase Order stipulates a warranty period is applicable in relation to the supply of the Goods and/or Services, the Purchase Order shall refer to a period of time within which, in the event that Goods and/or Services which are supplied are defective, deficient or not in accordance with the specification and/or Purchase Order, the Instructing Party shall be entitled to elect to avail of any of the remedies set out in Article 15.6 below.
4. Where a Purchase Order does not stipulate a warranty period, a term of warranty of one (1) year shall apply, which shall be without prejudice to the Supplier's liability for latent defects upon the expiry of such term.
5. In the event that the Instructing Entity is of the opinion that any Goods and/or Services that have been supplied do not conform with the Purchase Order, the Instructing Entity shall reject them, shall notify the Supplier of this in writing as soon as possible, and acting at its discretion the Instructing Entity may elect to:
 - a. return the deficient Goods to the Supplier (or arrange for this to be done) and its duty to effect payment for the relevant Goods and/or Services shall cease to apply; or
 - b. return the deficient Goods to the Supplier (or arrange for this to be done) and require the Supplier to supply a replacement of the Goods; or
 - c. require the Supplier to repair or remedy the deficient Goods and/or Services. The provisions of (a) to (c) shall be effected at the Supplier's risk and expense. Any Goods that are rejected shall remain the property of the Supplier or shall immediately become the latter's property as of the time when the relevant notice of rejection is sent, and the risk in the Goods shall be borne by the Supplier in full as of that time.
6. In the event that a Supplier does not comply with its obligations pursuant to these General Terms and Conditions of Procurement, the Instructing Entity shall be entitled to arrange for some other party to carry out any repairs, supply a replacement or provide replacement Services at the Supplier's risk and expense in so far as it is reasonable to do so.
7. The Supplier shall warrant that it will be able to supply all of the parts for the Goods supplied during a period of time stipulated in the relevant Purchase Order. In the event that the Parties fail to agree on such a period of time, the Supplier warrants that it will stock and supply all of the parts for the Goods supplied for a period of not less than [two (2)] years.
8. The Instructing Entity's rights under these General Terms and Conditions of Procurement are in addition to its statutory rights conferred by the Sale of Goods Acts 1893 and 1980.

Article 16. Maintenance period and warranties

1. The Supplier shall be liable for all of the costs associated with the repair or replacement of a defect and the re-commissioning of any goods or the works.
2. In the event that the Instructing Entity is of the opinion that a Supplier is too late in remedying a defect and/or fails to do so properly, or where such defect does not allow for any delay, after issuing a written reminder stipulating a reasonable period within which the Supplier is to comply with its obligations, the Instructing Entity shall be at liberty to do all that is required or to arrange for some other party to do so, and to charge the Supplier for all of the costs involved in this.

Article 17. Intellectual Property

1. The Supplier shall indemnify the Instructing Entity against any claim arising pursuant to an infringement of industrial and/or intellectual property belonging to some other party in respect of any goods that the Supplier has delivered or work which it has performed, and shall compensate the Instructing Entity for any loss that the latter suffers and/or could suffer as a result of action taken against it by the holders of those industrial and/or intellectual property rights.
2. Any drawings, illustrations, calculations, physical patterns methods and procedures which are supplied or have been purchased by the Instructing Entity, shall remain the latter's property and the Supplier shall not be permitted to reproduce, copy or publish them, place them at the disposal of some other party, or use them for any purpose other than the Purchase Order. Acting at its own expense the Supplier shall have a duty to return the aforementioned items to the Instructing Entity, if the latter requests this in writing after the relevant delivery or handover.
3. Any goods or methods which the Supplier develops in conjunction with or at the behest of the Instructing Entity may not be placed at the disposal of any other party other than after the Instructing Entity consents to this in writing. Any expertise which the Supplier acquires in the course of such development shall only be made available to the Instructing Entity and the Supplier shall not disclose same to any other party or use it for its own benefit and/or that of such other party, other than with the Instructing Entity's prior written consent.
4. The Supplier shall not disclose to any third party any data, information, intellectual property or know-how that it obtains from the Instructing Entity during the course of supplying the Goods and/or the Services.

Article 18. Liability and Insurance

1. The Supplier hereby indemnifies and agrees to hold harmless the Instructing Party in full against any claims, liability, loss, damages, costs or expenses (including legal expenses) whatsoever arising out of or in connection with any act or omission by the Supplier or any of its employees, agents or subcontractors in the supply of the Goods and/or the performance of the Services.
2. The Supplier shall take out and maintain adequate insurance coverage with a reputable insurer to cover the risks of supplying the Goods and/or performing the Services in accordance with each Purchase Order, including without limitation, Public Liability, Employer's Liability and Product Liability Insurance. When requested to do so by the Instructing Entity, the Supplier shall provide to it evidence of such insurance coverage.

Article 19. Reputation, confidentiality and prohibition of disclosure

1. The Parties shall refrain from bringing each other and/or each other's business associate(s) into disrepute.
2. Each Party shall have a duty to treat any information and other details obtained directly and/or indirectly from the other Party as confidential. The Parties shall not provide such information and details to any other Party, except if and in so far as this is necessary for the purposes of executing a Purchase Order and the other Party consents to this in writing. The Parties shall not use such information and details for purposes other than the execution of the relevant Purchase Order.
3. Neither Party shall be permitted to use the name of the other Party in publications, advertisements or in any other way, unless it receives prior written consent from the other Party.
4. In the event of either party breaching its duty of confidentiality in accordance with this Article 19, the defaulting party shall pay liquidated damages of EUR 1,000.00 for each and every contravention. The amount comprising the liquidated damages shall be paid immediately to the innocent party upon the first request of the other party. The Instructing Entity shall be entitled to set off any liquidated damages payable to it against any amount owed to it by the Supplier.

Article 20. Corporate Social Responsibility

1. The Supplier shall comply with all relevant laws relating to human rights, health, safety and the environment and anti-bribery and anti-corruption (including the UK Bribery Act and The US Foreign Corrupt Practices Act, where applicable).
2. The Supplier shall also comply with the good ethical business practices as set out in the "CRH Code of Business Conduct" (available from: http://crh.com/docs/code-of-conduct/english_code.pdf).
3. The Supplier shall use best endeavours to comply with the "CRH Ethical Procurement Code" which specifically requires the Supplier to:
 - a) support and respect the protection of human rights within their areas of influence.
 - b) respect freedom of association and the effective recognition of the right to collective bargaining by all employees.
 - c) prohibit all forms of forced, compulsory, and child labour.
 - d) support the principle of equal opportunity in respect of the recruitment and selection of employees.
 - e) comply, as a minimum, with all applicable health & safety legislation and continually improve stewardship towards industry best practice.
 - f) comply, as a minimum, with all applicable environmental legislation and support a proactive approach to environmental challenges.
 - g) comply with all relevant anti-bribery and anti-corruption legislation in respect of their dealings with the Instructing Entity.

Article 21. Governing law and disputes

1. These General Terms and Conditions of Procurement and any relevant Purchase Order shall be governed by the laws of Ireland. The Supplier agrees to submit to the non-exclusive jurisdiction of the courts of Ireland.