

OMAR PARK HOMES LIMITED – CONDITIONS OF PURCHASE

1. INTERPRETATION

For the purposes of the Contract the terms listed below shall bear the respective meanings ascribed thereto:

- 1.1 the "Company" means Omar Park Homes Limited its assignees and successors in title
- 1.2 the "Supplier" means the person, firm or company to whom the Order is addressed
- 1.3 the "Goods" means the raw materials, articles, software or things or any of them to be supplied by the Supplier to the Company pursuant to the Order
- 1.4 the "Order" means a purchase order in respect of Goods issued by the Company to the Supplier on the Company's official purchase order form, together with all other documents referred to therein
- 1.5 the "Contract" means this document together with any variation hereof agreed in writing between the parties once the Supplier has accepted the Company's Order pursuant to Clause 3

2. APPLICATION

These Conditions shall apply to and be incorporated in the Contract between the Supplier and the Company for the supply of the Goods and shall be in substitution for any oral arrangements made between the Company and the Supplier and shall prevail over any inconsistent terms or conditions contained in or referred to in the Supplier's quotation or acceptance of Order or correspondence or elsewhere or implied by trade custom or practice or course of dealing and no addition to or variation of or exclusion or attempted exclusion of these Conditions or any of them shall be binding upon the Company unless specifically agreed to in writing and signed by a duly authorised representative of the Company

3. ACCEPTANCE OF ORDER

Unless otherwise agreed in writing between the parties, and on behalf of the Company by an authorised representative of the Company, all the terms of the Contract are contained in or referred to in the Order and in these Conditions. The execution and return of the acknowledgment copy of the Order by the Supplier or the Supplier's commencement of delivery pursuant to the Order constitutes acceptance of the Order on the terms hereof by the Supplier. The acceptance of the Order is limited to and conditional upon acceptance by the Supplier of these conditions

4. PACKING, MARKING AND DOCUMENTATION

- 4.1 The Goods shall be properly packed, marked and delivered at the Supplier's expense in accordance with the Order
- 4.2 Each advice note, bill of lading and invoice shall bear any applicable component number, delivery date and the location to which the Goods are to be delivered
- 4.3 Advice notes and invoices must be sent as directed by the Order
- 4.4 A separate invoice must be rendered for each individual delivery of Goods
- 4.5 The Supplier agrees on request to supply the Company with any necessary declarations and documents stating the origin of the Goods

5. DELIVERY DATES

- 5.1 Time is of the essence in the performance by the Supplier of the Order. If the delivery dates for the Goods cannot be met the Supplier shall promptly notify the Company of the earliest possible date for delivery of the Goods. Notwithstanding such notice, and unless a substitute delivery date for the Goods has been expressly agreed to by the Company in writing, the Supplier's failure to effect delivery of the Goods on the date specified shall entitle the Company to cancel this Order without liability to the Supplier, to purchase substitute items elsewhere, and to recover from the Supplier any loss and additional costs incurred
- 5.2 The Supplier will report immediately to the Company the occurrence of any event either within or beyond its control which is likely to affect delivery of the Goods

6. DELIVERY POINTS

The Goods must be delivered at the delivery point specified in the Order. If the Goods are incorrectly delivered the Supplier will be liable for any additional expense involved in handling the delivering of them to their correct destination

7. WARRANTY

The Supplier hereby agrees that this Order is placed on the following conditions and warrants that:

- 7.1 when delivered the Goods will be:
 - 7.1.1 of satisfactory quality, fit for their normal purpose and/or any particular purpose made known to the Supplier by or on behalf of the Company (and in particular, without limitation, the Goods can be used for such purpose safely and without injury) and free from any defects;
 - 7.1.2 of the design, nature, description, substance, composition, quality and quantity described herein and on any invoice relating thereto and on any wrappers, containers or other packaging of the Goods; and
- 7.2 where any samples of the Goods and/or their packaging and/or labelling are supplied to the Company, the Goods and/or any such packaging and/or labelling will correspond in every respect with the samples; and
- 7.3 the Goods (and the packaging, labelling and any advertisement for the Goods prepared by or on behalf of the Supplier) will comply in each and every respect with all the relevant legal or other requirements (including if applicable with any relevant British or European Standard) of the United Kingdom and of the European Union; and
- 7.4 any instructions or recommendations relating to the storage, use, life expectancy/durability of the Goods, whether express or implied, shall comply with all relevant statutory or other legal requirements for the time being in force and shall be complete and accurate and enable the Goods to be sold, used, stored and retained safely and without any deterioration in their nature, substance or quality

8. ACCEPTANCE OF GOODS

- 8.1 The Company shall be under no responsibility to accept delivery of Goods for which written instructions have not been provided by the Company. Deliveries of Goods other than in accordance with the Order may (at the Company's discretion) be returned to the Supplier at the Supplier's expense and risk and the Supplier shall pay all the Company's costs of packaging, handling and sorting such deliveries. The Company may (at its reasonable discretion) from time to time change any details specified in the relevant Order by written instructions
- 8.2 If any delivery pursuant to the Order is incomplete the Company reserves the right (without prejudice to any of its other rights) to accept or reject the Goods so delivered and to cancel or vary the balance of the Order
- 8.3 The Goods shall be subject to inspection and testing by the Company and:
 - 8.3.1 in any case where the Goods or any part thereof (whether or not inspected or tested by the Company) do not comply with the requirements of the Order the Company shall have a right to repair such goods at the expense of the Supplier or to reject the Goods concerned and when doing so shall give notice of rejection to the Supplier specifying the reasons therefore and shall thereafter return any Goods concerned to the Supplier at the Supplier's risk and expense. In such case the Supplier shall within a reasonable time replace such rejected Goods with Goods which are in all respects in accordance with the Order
 - 8.3.2 if the Supplier shall fail to replace any rejected Goods within a reasonable time the Company shall have the right to purchase replacement Goods from another source and any money paid by the Company to the Supplier in respect of the rejected Goods together with any additional expenditure over and above the Contract price reasonably incurred by the Company in obtaining replacement Goods shall be paid by the Supplier to the Company

9. INDEMNITY

The Supplier agrees to indemnify and at all times to hold the Company, its agents, employees, officers, subsidiaries, associated companies and assignees indemnified from and against any and all liability, damage, loss, cost or expense indirectly or directly arising from or consequential upon:

- 9.1 any alleged or actual infringement of any patent, registered design, copyright, trade mark or other rights of any person, firm or company resulting from the purchase, use, re-sale or possession by the Company, its servants, agents or customers of the Goods or any part thereof;
- 9.2 any act or omission in the performance of or in connection with any or all of the obligations undertaken by the Supplier pursuant to the Order, whether by reason of the negligence of the Supplier, its agents, employees, or sub-contractors or their agents or employees, or otherwise, including without limitation to the generality of the foregoing any liability arising as aforesaid from any injury to any person or persons but excluding any such liability, damage or loss arising directly from negligence on the part of the Company

Provided that the Supplier shall have no obligation to indemnify under this clause if and to the extent that any relevant liability, damage, loss, cost or expense incurred was only incurred because the Supplier delivered the Goods strictly in accordance with designs, plans or specifications supplied by the Company

10. INSURANCE

The Supplier will at all times insure and keep themselves insured with a reputable insurance company against all insurable liability under the Order and in respect of the Goods and without prejudice to the generality of the foregoing against all the Supplier's liabilities under Clause 9. The Supplier will provide all facilities assistance and advice required by the Company or the Company's insurers for the purpose of contesting or dealing with any action claim or matter arising out of the Supplier's performance of the Order

11. FORCE MAJEURE

- 11.1 Neither party shall be liable or responsible for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond that party's reasonable control and including but not limited to any Act of God, war, shipwreck, civil disturbance, requisitioning, governmental or parliamentary restriction, prohibition or enactment of any kind, import regulation or prohibition, strike, lock-out or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining parts or labour or raw materials, oil, gas, coal, electricity or any other fuel or raw material, breakdown in machinery, fire or accident, theft, non-availability or delay of vessels of transport
- 11.2 In the event of a failure by the Supplier to perform as required by the Order arising from any such cause or event as aforesaid the Company shall be entitled to obtain the Goods elsewhere and to reduce, pro tanto and without obligation upon the Company the quantity or amount of the Goods ordered from the Supplier under the Order

12. PACKING

The Company shall not accept a charge for packaging or containers unless specified in the Order. The Company will (if its storage facilities permit) store at the risk and cost of the Supplier the Supplier's returnable packaging whilst in the Company's possession for a reasonable period of time not exceeding one month from receipt. The costs of collection, storage, insurance and carriage will be borne by the Supplier

13. PRICE

- 13.1 All prices for the Goods shall be as stated in the Order, save that if no such price is stated the price of the Goods shall be the lowest price currently quoted or charged at the date of the Order by the Supplier for those Goods, but in no event higher than the price most recently charged to the Company by the Supplier for Goods of the same description
- 13.2 Where Goods are subject to purchase tax, value added tax or any other similar taxation the amount legally demandable is to be rendered as a separate item of account and if required by the Company the Supplier will produce bona fide evidence of the amount paid or to be paid in respect thereof

14. TERMINATION

Without prejudice to any other remedy available to the Company the Company shall be entitled to terminate the Contract by written notice:

- 14.1 if the Supplier (being an individual) becomes bankrupt or if the Supplier (being a company) adopts a resolution for its winding up or if a petition is presented for the appointment of an administrator or receiver or if a receiver or administrative receiver is appointed in respect of any part of the Supplier's undertaking or assets or if the Supplier is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (or any re-enactment or further enactment thereof); or
- 14.2 if any other contract between the parties hereto is terminated by either party for whatever reason; or
- 14.3 if the Supplier refuses or fails to make deliveries of the Goods within the time specified in the Order or refuses or fails to perform any other provisions of the Order and, where such breach is capable of remedy, fails to remedy the same within 21 days after receipt of written notice from the Company requiring remedy thereof

15. TITLE AND RISK

The property and risk in the Goods shall pass to the Company on delivery of the Goods in accordance with the Order, without prejudice to any right of rejection which may accrue to the Company under these conditions or otherwise

16. PAYMENT

- 16.1 Unless otherwise specified in the Order payment of invoices shall be made by the end of the month following the month in which the Goods are received in accordance with the Order
- 16.2 The Company reserves the right to deduct from any monies due or becoming due to the Supplier any monies due from the Supplier to the Company whether in connection with the Goods or otherwise

17. CHANGES

The Supplier shall not make any changes whatsoever in the colour, specification, design or composition of the Goods

18. GENERAL

- 18.1 The warranties and remedies provided for in these conditions shall be in addition to those implied by or available at law or in equity and shall continue in force notwithstanding the acceptance by the Company of all or part of the Goods in respect of which such warranties and remedies are applicable
- 18.2 Neither the Order nor any part thereof shall be assigned, sub-contracted or transferred in any other manner to a third party without the Company's prior written consent. Any such consent to subcontracting shall not relieve the Supplier of any obligation to comply with these Conditions or the Order
- 18.3 All specifications, drawings, sketches, models, samples, designs, technical information or data and other proprietary information, written, oral or otherwise ("information"), furnished to the Supplier by the Company or on its behalf and all rights therein shall remain the property of the Company and shall be returned promptly to the Company (together with all copies) at the Company's request. Such information shall be treated as strictly confidential, shall be kept safely and shall not be used or disclosed by the Supplier except strictly as required in the course of performance of this Order or any other order. Unless the Company has otherwise agreed in writing all information of every description whether written or oral or three dimensional prepared by the Supplier in connection with the Order shall be the Company's sole property and the Company may reproduce and use the said items freely for any purpose whatsoever.
- 18.4 No waiver of any term of the Contract by the Company shall be deemed to be a further or continuing waiver of any other term of the Contract
- 18.5 Any notice or communication required to be in writing hereunder shall be in writing or by telex or electronic mail ("email") addressed to the relevant party and shall be deemed to have been sufficiently served on or despatched to the said party if left at or sent by facsimile transmission or email or registered or recorded delivery or by telex to the registered office (or any principal place of business) of such party. The same shall be deemed to have been received at the time when handed to or left with the addressee or if served by post on the next succeeding day (not being a Saturday or Sunday or Public Holiday) following the day of posting or if by telex or facsimile or email at the time of despatch thereof
- 18.6 If any of the terms hereof are said to be void or unenforceable by any reason of law, they shall be void or unenforceable to that extent only and no further and all other terms shall remain valid and fully enforceable
- 18.7 The headings used in these conditions are for ease of reference only and shall not in any way affect the construction thereof
- 18.8 The Supplier will not without the prior written consent of the Company advertise or publish in any way whatsoever the fact that the Supplier has contracted to supply the Goods to the Company
- 18.9 Any dispute arising out of or in any way affecting the Contract shall if either party serves a notice in writing so electing on the other party be referred to arbitration in [London] under the rules of conciliation and arbitration of the International Chambers of Commerce before a single arbitrator whose decisions shall be final

19. LAW

The construction, validity and performance of the Contract shall be governed in all respects by English law and the parties hereby submit to the non exclusive jurisdiction of the English courts