

Finance – Purchase Order - Terms & Conditions

1. Definitions

“Buyer” means Milton Keynes Parks Trust Ltd

“Seller” mean the person, firm or company to whom the Order is addressed.

“Goods” means the articles or things or any of them described in the Order.

“Specification” means the technical description (if any) of the Goods contained or referred to in the Order.

“Order” means the Order placed by the Buyer for the supply of goods

“Associated Company” means the company which is associated with the Seller either through holdings of shares to an extent of not less than twenty five per cent of its equity share capital (as defined in the Section 154 of the Companies Act 1948) or through common directors to an extent of not less than one third for the time being of the total number of directors.

2. Supremacy of Conditions and Order

Acceptance of the Order implies full acceptance of these conditions and overrules any differing conditions which may be contained in or appear on the Seller’s acknowledgment forms on similar documents or which the Seller may seek to impose in any other way unless the Buyer agrees expressly in writing that any variations should override these conditions.

This Order when accepted shall supersede any prior understandings, transactions and communications whether oral or written, pertaining to the subject matter thereof.

3. Order Numbers

The Order Number must be quoted on all correspondence, advice notes and invoices relating to the Order and must be distinctly marked on all packaging cases and address labels.

Packing or contents notes for identification purposes should accompany all Goods.

4. Inspection and Testing

(a) The Buyer shall be entitled to inspect all Goods before on, or after delivery. If the Buyer exercises its right to inspect the Goods before delivery the Seller shall provide such facilities as shall be reasonably required by the Buyer in connection with such inspection.

(b) The Seller shall carefully inspect all Goods before delivery and test them for compliance with the Order. The Seller shall at the Buyer’s request provide the Buyer with a copy of the Seller’s test sheets certified by the Seller to be a true copy. No inspection by or on behalf of the Buyer before delivery shall relieve the Seller of the obligation to make a full and adequate test and inspection to ensure that the Goods are in all respects in compliance with the Order.

(c) If as a result of any inspection or test before delivery the Buyer is of the opinion that the Goods do not comply with the Order or are unlikely to on completion of the manufacturing or processing so to comply he/she shall inform the Seller accordingly in writing and the Seller shall take such steps as may be necessary to ensure such compliance.

5. Consignment and Storage

The Goods must be consigned in accordance with the instructions contained in the Order and carriage is free unless otherwise stated in the Order. On the date of such consignment the Seller must post an Advice Note to the Buyer Office of the Buyer containing a description of the Goods contained in the Order Form. Storage shall be as specified in the Order when the Buyer is unable to take immediate possession of the Goods.

6. Delivery

Delivery shall be at the time and place and in the manner specified in the Order and if no time or place is specified for delivery the delivery shall be between 9am and 5:30pm on Mondays to Fridays and no goods shall be accepted on Saturdays except by specific arrangements at the address shown on the Order. Arrangements for payment and return of returnable wooden packing cases, skids, drums and other reusable articles used for packing the Goods must be notified to the Buyer in advance of delivery, otherwise such items will be free and non-returnable. The Goods will not be delivered in such a manner as to require the Buyer to provide facilities for off-loading unit weights of more than one hundred weights and the Seller must instruct the carrier accordingly. The seller shall repair or replace free of charge Goods damaged or lost in transit provided that the Buyer shall give the Seller written notification of such damage or loss within such time as will enable the Seller to comply with the carrier’s

conditions of carriage if the Buyer is given written notice of such period, or otherwise within a reasonable time not being less than ten days.

7. Invoice

A separate invoice for each Order must be sent to the Buyer within three days of despatch of the Goods. The invoice must give full particulars of the Goods supplied and of any cash discount. A detailed statement must be sent to the Buyer not later than the last day of the calendar Month following the date of the receipt of the invoice.

8. Quantity

Neither the quantity of Goods specified in the Order nor the production arrangements therefore shall be exceeded without the prior written consent of the Buyer nor shall deliveries of any Goods be made by the Seller except on receipt of and in accordance with an Order issued on the Buyer's printed form and duly signed. The Buyer's count shall be accepted as conclusive on all shipments not accompanied by a packing or contents note and in any event the Buyer shall be entitled to return any material in the excess of the quantities specified in the Order Carriage Paid by Supplier.

9. Property and Risk

The property in the Goods shall pass to the Buyer on delivery without prejudice to the Buyer's right of rejection under Condition 11 below. In no event will the Buyer accept any responsibility for the risk of loss or any liability for anticipated profits or for damages on account of negligence for incidental or consequential damages. If the Seller postpones delivery at the request of the buyer pursuant to Condition 5 the property in the Goods shall, nevertheless remain at the Seller's risk until delivery has been affected.

10. Cancellation

If the Seller fails to make any delivery in accordance with the agreed delivery date or schedule or otherwise fails to comply with any of the terms, conditions or instructions applicable to the Order, the Buyer shall have the right to cancel by notice in writing to the Seller the Order or any undelivered portion of the Order and in such event the Seller shall not have any claim against the Buyer in respect thereof. Cancellation shall be without prejudice to any other rights of the Buyer to damages or any other remedy granted or implied by statute or common law in respect of any additional expenditure reasonably incurred by the Buyer in obtaining other Goods in replacement of those in respect of which the contract has been determined.

11. Rejection and Termination

(a) The Buyer may by notice in writing to the Seller reject the Goods if the Seller fails to comply with his/hers or its obligations under Condition 13 hereof and may also by notice in writing to the Seller given either before or within 28 Days after delivery or such longer period as may be stated in the Order reject any Goods which are found not to be in accordance with the Order. This right to reject shall be in addition to any other rights of the Buyer to damages or any other remedy granted or implied by statute or common law. The Buyer may after giving notice of rejection return the rejected Goods to the Seller at the Seller's risk and expense.

(b) Prior to delivery the Buyer may terminate the Order in whole or in part by notice in writing to the Seller if the Seller or any associated company of the Seller is in default under any other contract with the Buyer.

12. Guarantee

In addition and without prejudice to the Buyer's right of rejection under Condition 11 the Buyer shall be entitled at any time within the guarantee period (namely one year after the date of delivery or such other period as may be stated in the Order) to require the Seller to replace or repair the Goods with all possible speed at the Seller's cost in the event of any defect in the Goods arising from faulty materials or workmanship or from faulty design if the Buyer has not acknowledged in writing its exclusive responsibility for design.

13 Quality and Description

The Goods shall conform as to quantity and description with the particulars stated in the Order and shall be of sound materials and workmanship and shall conform in all respects with any samples drawings patterns or specifications provided by either party. If stated a standard of

performance is specified the Goods will be capable of the required performance. If the purpose for which the Goods are required is indicated in the Order either expressly or by implication then the Goods shall be fit for that purpose.

14. Patents

In any case where the Goods are not manufactured to the Buyer's designs and specification the Seller shall fully indemnify the Buyer against any action claim demand costs charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, registered design, trade mark or trade name or any other similar right or from any breach of any Statute. Statutory Rule or Order or other instrument having the force of law by the use or sale of the Goods and against all liability costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable in any such action.

15. Proprietary Rights

When the cost of special dies, moulds, jigs or tools involved in the manufacture of Goods covered by the Order is included in the Contract price such as dies, moulds, jigs or tools shall become the property of the Buyer upon completion of the Order and shall be held or disposed of in accordance with the instructions of the Buyer.

16. Drawings and Other Property of Buyer

If the buyer shall supply the Seller with any drawings plans schedules notes other documents or designs or any other property of any kind whatsoever the Seller will not duplicate publish use or discuss with or communicate or reveal them to any person firm or corporation or utilise them or any information contained therein for any purpose except as may be strictly necessary in the performance of the Seller's work for the Buyer and all such documents and other property shall at all times be and remain property of the Buyer and shall be held by the Seller at the Seller's risk and shall be promptly returned to the Buyer upon completion of the works or earlier if the Buyer requires. If the Goods are to be supplied in accordance with the Buyer's drawings or specifications the Seller hereby grants the buyer an irrevocable licence to make, procure, use and sell any improvement in such Goods made by the Seller.

17. Changes

The Buyer shall have the right by written order to make changes from time to time in the work to be performed or Goods to be supplied by the Seller hereunder but no charge for extra work or changes to the Goods will be allowed by the Buyer unless the same has been ordered in writing by means of a supplemental order issued by the Buyer therefore. If any such change shall cause any alteration to the amount due at the delivery date under the Order the Seller shall notify the Buyer immediately and an appropriate adjustment shall be made and the Order modified accordingly in writing.

18. Assignment

The Seller shall not be entitled to assign any of its rights or obligations hereunder without the written consent of the Buyer.

19. Bankruptcy or Liquidation

The buyer may, by notice in writing to the Seller, summarily cancel the Order without compensation to the Seller (whether or not deliveries have commenced) if the Seller shall cease to carry on business or (being an individual or a firm) shall become bankrupt or shall have a receiving order made against him or them or shall make any composition or arrangement with his or their creditors or (being a company) shall so into liquidation whether voluntary or compulsorily or shall have a Receiver appointed of its property assessor undertakings or any part thereof. Cancellation shall be without prejudice to any other rights of the Buyer to damages or any other remedy granted or implied by statute or common law.

20. Rights

These conditions are in addition to and not in substitution for the Buyer's statutory and common law rights.

21. Indemnity

The seller undertakes to be responsible for and to release and indemnify the Buyer its servants agents and visitors from and against all liability for personal injury (whether fatal or otherwise) and from and against all loss or damage to property (including in either case costs and expenses incurred by the Buyer in connection therewith) which would not have arisen but for the presence on the Buyer's premises of the Seller its servants or agents.

22. Insurance

If any work is to be carried out on the Buyer's premises by or on behalf of the Seller in connection with the Order the Seller must comply with all regulations applying thereto and must be insured for both Employers' Liability and Public Liability Risks and the Indemnity limit on the Public Liability policy must be at least £250,000 and the Buyer shall be entitled to inspect the policies on making written request therefore. If any policy covering these risks falls due for renewal during the period of such work the policy must be renewed by the Seller. The Seller shall also insure any material or property sent to the Seller by the Buyer for any purpose in connection with the contract against any damage which may occur to it through fire or any other cause whilst in the Seller's custody for its full value.

23. Waiver

No delay or failure on part of the Buyer to exercise any right under the contract shall constitute a waiver of any right there under.

24. Force Majeure

If at any time deliveries are interrupted or prevented by reason of any event beyond the control of either party (including without prejudice to the generality of the foregoing any strike by the workmen of either party or any lockout by either party of its own workmen) the Buyer may by notice in writing to the Seller cancel the Order or any undelivered portion of the Order and the Seller shall not have any claim against the Buyer in respect thereof. Such cancellation shall be without prejudice to any rights of the Buyer to damages or any other remedy granted or implied by statute or common law.