

T&G GLOBAL LIMITED

STANDARD PROCUREMENT (NON PRODUCE) - TERMS OF TRADE

INTRODUCTION

These Terms apply to all supplies of Goods and/or Services (other than supplies of fresh produce or flowers) by any vendor or supplier to T&G Global Limited or any subsidiary of T&G Global Limited.

1. INTERPRETATION

1.1 In these Terms unless the context otherwise requires:

"Confidential Information" means, in relation to a party, information relating to business affairs, trade secrets, know-how of the party, including the fact that any Order exists, or information which might reasonably be expected by virtue of its content or the context of its disclosure to be confidential in nature.

"Delivery" means the delivery or performance of the Goods and/or Services in good order, condition and to agreed specification to the location(s) nominated by T&G, and in each case, such delivery or performance (as the case may be) to be in accordance with these Terms. **"Deliver"** has a corresponding meaning.

"Order" means a purchase order which may be placed from time to time by T&G with You pursuant to these Terms.

"T&G" means T&G Global Limited or, in relation to an Order, the relevant subsidiary of T&G Global Limited placing the Order.

"Intellectual Property" means copyright, all rights in relation to inventions (including patents), registered and unregistered trade marks, registered and unregistered designs, circuit layouts and confidential information, and all other rights anywhere in the world resulting from intellectual activity.

"Goods and/or Services" means the goods and/or services specified in the relevant Order and all parts or components of those goods and/or services. Reference to **"Goods"** in these Terms includes any goods or products supplied as part of the Services.

"Terms" means the terms of trade contained in this document, as amended by T&G Global Limited from time to time.

"You" and **"Your"** means the vendor or supplier to whom the Order is issued.

A reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

Headings appear as a matter of convenience only and will not affect the interpretation of these Terms.

The singular includes the plural and vice versa.

"including" and similar words imply no limitation.

2. APPLICATION OF TERMS

2.1 These Terms apply in respect of every supply of Goods and/or Services by You to T&G pursuant to an Order unless T&G expressly agrees otherwise in writing.

2.2 You will become bound by these Terms upon the earlier of:

- (a) You accepting these Terms in writing; or
- (b) You accepting an Order from T&G; or
- (c) You Delivering Goods and/or Services pursuant to an Order.

If You have a term contract for the supply of any goods and/or services to T&G, then these Terms shall not apply to the extent of any contrary provision in that term contract in respect of any supply made pursuant to that term contract, but will apply in respect of any Order not the subject of that term contract and immediately upon the expiry or earlier termination of that term contract.

2.3 These Terms are paramount and apply notwithstanding any invoice or other document relating to any Order or any Goods and/or Services (including Your terms of supply) whether or not that invoice or other document is later in time, unless T&G expressly agrees otherwise in writing.

2.4 Each subsidiary of T&G Global Limited is entitled to the benefit of these Terms and, in addition, T&G Global Limited is entitled to enforce these Terms on behalf of any of its subsidiaries. However, the consent of T&G Global Limited's subsidiaries are not required to any variation, amendment or discharge of these Terms by T&G Global Limited.

3. QUANTITY FORECASTS

3.1 While T&G may give You estimates of T&G's future requirements of the Goods and/or Services, these estimates may prove to be inaccurate and You confirm that You will not rely on them in any circumstances. To avoid doubt, T&G is only bound to purchase any Goods and/or Services Delivered pursuant to any Order made by T&G.

4. DELIVERY & PAYMENT OF GOODS

4.1 You must:

- (a) on Delivery of the relevant Goods and/or Services:
 - (i) send detailed advice notes (packing slips), which must accompany the Goods to each delivery point;
 - (ii) send tax invoices which comply with all relevant revenue statutes and regulations (unless otherwise agreed by T&G in writing); and
 - (iii) clearly indicate any substances in the Goods which may be released during the handling, installation, use, storage or disposal of such Goods which are or may be hazardous to human health, animal health or the environment, by clearly marking such Goods and by including appropriate and prominent precautions in documentation accompanying such Goods;
- (b) send to T&G by the 10th day of each month an invoice for Goods and/or Services rendered during the previous calendar month (unless otherwise agreed by T&G in writing);
- (c) where provided, mark T&G's Order numbers and any part numbers on all relevant invoices, packing slips, advice notes, statements and correspondence;
- (d) mark bar codes and other identifying information on the Goods and packages and packaging for such Goods, as required by T&G.

- 4.2 Unless specifically agreed in writing, T&G will pay for the Goods and/or Services Ordered by the 20th day of the month following receipt of the invoice for those Goods and/or Services in accordance with clause 4.1(b), provided that these Terms have not been breached.
- 4.3 If T&G disputes any amount invoiced to it or required to be paid by it to You, T&G will not be required to pay such disputed amount until the dispute has been resolved.
- 4.4 T&G shall be entitled to make any set off or deduct from the price of Goods and/or Services supplied by you any payment due by You to T&G.

5. PACKING AND DELIVERY

- 5.1 You must have a valid Order before You supply Goods and/or Services to T&G. Goods and/or Services supplied or without a valid Order may be returned to You at Your risk and expense.
- 5.2 You will adequately pack and protect Goods against damage and deterioration.
- 5.3 You must Deliver the Goods and/or Services not later than the time/s specified in the Order. Time will be of the essence.
- 5.4 T&G accepts no responsibility for the Delivery of the Goods and/or Services (unless otherwise agreed by T&G in writing) nor for any packing materials or cases.

6. TITLE, RISK & INSURANCE

- 6.1 Risk and title to the Goods will remain with You until the Goods have been Delivered to T&G when risk and title will pass to T&G.
- 6.2 You will at Your own expense keep all Goods insured to their full insurable value against all normal and usual insurable risks until such time as the risk passes to T&G.

7. WARRANTIES AND INTELLECTUAL PROPERTY

- 7.1 In addition to all other warranties, conditions or other terms expressed or implied by law or otherwise, You warrant to T&G that:
- (a) at the time of Delivery, the Goods will be new and unused (unless otherwise agreed by T&G in writing) and of merchantable quality, and the Goods and/or Services will be fit for the usual purposes for which they are intended and fit for any particular purpose made known to You;
 - (b) the Goods and/or Services will comply with all specifications agreed by You and T&G and all applicable statutory requirements;
 - (c) the Goods will be free of any security interest, lien or other encumbrance;
 - (d) the Goods and/or Services will not infringe nor violate any intellectual property rights;
 - (e) the Goods and/or Services will be Delivered within a reasonable time where a time for Delivery is not specified in the Order;
 - (f) You have the right to supply the Goods and/or Services in accordance with these Terms;
 - (g) all Services will be performed by persons with the requisite skills and experience; and
 - (h) You have complied and will comply with all relevant law and regulations, and will maintain, at your cost, all licences, approvals and permits required by law, in order for You to be able to perform Your obligations under these Terms and each Order.

7.2 All Intellectual Property which is owned by, or is proprietary to, a party at the date of the relevant Order shall remain owned exclusively by that party. Any new Intellectual Property which is created as a result of, or in connection with, the supply of the Goods and/or Services, or otherwise in connection with these Terms, shall be the sole property of a party if developed by or on behalf of that party, or if developed by two or more parties, property of each party where ownership is proportionate to the contribution of resources by the parties, or as otherwise agreed in writing. In each case, neither party may use the other party's Intellectual Property unless the nature and extent of the use has been approved in writing by the other party in advance.

8. DEFAULT AND CANCELLATION

8.1 If You breach these Terms, including any of the warranties contained in clause 7.1, then at the sole option of T&G and without prejudice to any other remedy or right:

- (a) T&G may reject the Goods and/or Services in whole or in part and return the relevant Goods to You at Your risk and expense and You must immediately reimburse T&G for any monies paid in respect of such Goods and/or Services; or
- (b) T&G may:
 - (i) require You to replace, repair, reinstate or re-supply the Goods and/or Services at Your expense so they conform with these Terms; or
 - (ii) have the Goods and/or Services replaced, repaired or re-supplied by another person and recover the cost of doing so from You.

8.2 T&G may suspend payment for the Goods and/or Services until the breach has been remedied.

8.3 T&G may immediately terminate any Order if You have breached these Terms or any Order and failed to remedy the breach within ten days after written notice has been given to You specifying the breach and requiring it to be remedied. Breach of any warranty by You can be treated by T&G as breach of these Terms whether or not T&G elects to accept the Goods and/or Services.

8.4 Either party may cancel any Order immediately if the other party becomes bankrupt, ceases business, goes into liquidation, becomes insolvent, appoints a receiver or enters into a formal proposal for a compromise with creditors.

8.5 No failure or delay on the part of T&G to exercise any of its rights in respect of any default under these Terms or any Order by You will prejudice its rights in connection with that default or any subsequent default.

8.6 If an Order is cancelled, You will return to T&G all payments made in respect of that Order. However, if upon cancellation T&G elects to keep or take any Goods and/or Services it will pay for them but otherwise no compensation will be payable to You. Notwithstanding the foregoing, T&G shall not be required to pay for any Goods and/or Services supplied as part of any cancelled Services unless the parties had agreed in the Order a specific price applicable to such Goods.

8.7 Termination or cancellation of any Order does not affect any responsibilities which are intended to continue or survive such termination or cancellation.

9. INDEMNITY

9.1 You will indemnify T&G, its directors, staff, agents and subcontractors against all costs, losses, damages and liability in connection with any claims by or on behalf of any person/s:

- (a) arising out of negligence or other fault or breach of any responsibility owed to any person by You, Your employees, agents and subcontractors in the performance of or non-compliance with these Terms or any Order; and
- (b) pursuant to any statutory or other legal requirements relating in any way to the Goods and/or Services.

10. THE RELATIONSHIP BETWEEN YOU AND T&G

- 10.1 Nothing in these Terms should be interpreted as constituting either You or T&G, an agent, partner or employee of the other and neither You nor T&G may pledge the credit of the other or represent to anyone that:
- (a) it is the other party;
 - (b) it is an agent, partner or employee of the other party; or
 - (c) it has any power or authority to incur any obligation of any nature on behalf of the other party.
- 10.2 T&G's relationship with You is not exclusive, You are free to supply goods and/or services to other purchasers and T&G is free to purchase goods and/or services (including goods and/or services equivalent to yours) from other suppliers.

11. CONFIDENTIALITY

- 11.1 Each party undertakes to the other that neither it nor its officers, employees, agents and/or subcontractors will divulge the other party's Confidential Information to others, without the prior written consent of the other party, otherwise than as required in the ordinary course of performing its obligations under these Terms or as may be necessary for T&G to promote, sell or service the Goods and/or Services or as required by law.
- 11.2 All Confidential Information provided by T&G will be and will remain the property of T&G, and You must:
- (a) use the Confidential Information only for the purpose of performing these Terms and/or any Order; and
 - (b) return the Confidential Information to T&G upon T&G's request at any time or if no request is made, upon completion or termination of the relevant Order.

12. HEALTH AND SAFETY

- 12.1 You warrant that You have complied and will comply with all approved codes of practice under all relevant Health and Safety legislation in connection with or relating to the provision of the Goods and/or Services.
- 12.2 When operating in any of T&G's premises or outlets, You must at all times comply with all policies and regulations affecting T&G, including but not limited to its hazard identification policy and other Health and Safety policies notified to you, or of which you are aware, from time to time.
- 12.3 You will immediately:
- (a) notify T&G if any person employed or engaged to perform any activity for the purposes of these Terms is harmed in any way;
 - (b) notify T&G if T&G will or is likely to be in breach of any relevant Health and Safety legislation as a result of your failure to comply with such legislation; and

- (c) do all acts and things as T&G reasonably directs to ensure that both You and T&G continue to comply with all relevant Health and Safety legislation and/or to remedy any breach of such legislation, including, if so directed, carrying out in good faith and with all due diligence, any safety procedures.

13. ASSIGNMENT AND SUB-CONTRACTING

- 13.1 You may not assign or otherwise transfer any of the rights, benefits or obligations under these Terms or any Order, without the prior written consent of T&G.
- 13.2 You must not sub-contract or otherwise arrange for another person to discharge any of Your obligations under these Terms or any Order without the prior written consent of T&G. Notwithstanding T&G's consent, You will remain fully responsible for all obligations to T&G under these Terms and each Order.

14. AMENDMENTS

- 14.1 T&G Global Limited may amend these Terms at any time and from time to time. Notice of any amendment by Turners & Growers Limited may be published on T&G Global Limited's website (<http://www.tandg.global>) and such amendment will be deemed to have taken effect and been accepted by You in respect of all Orders placed with and accepted by You after the time of publication of the amendment upon T&G Global Limited's website.

15. WAIVER

- 15.1 All the rights, powers and remedies of T&G whether under these Terms or at law or in equity shall remain in full force notwithstanding any neglect, forbearance or delay in the enforcement thereof. T&G shall not be deemed to have waived any term or condition or any right, power or remedy unless such waiver shall be in writing under the signature of T&G and any such waiver, unless the contrary is expressly stated, shall apply to and operate only in a particular transaction, dealing or matter.

16. FORCE MAJEURE

- 16.1 Neither party shall be liable for any failure or delay in complying with any obligation imposed on that party under these Terms if:
 - (a) the failure or delay arises directly or indirectly from a cause reasonably beyond that party's control and not due to the default or insolvency, or an intentional act or omission, of that party;
 - (b) that party, on becoming aware of the cause, promptly notifies the other party in writing of the nature and expected duration of, and the obligation affected by the cause; and
 - (c) that party uses its reasonable endeavours to mitigate the effect of the cause on that party's obligations and to perform that party's obligations on time despite the cause.

17. NOTICES

- 17.1 Any notice to be given under these Terms must be in writing and must be delivered or sent by post or facsimile to the registered office of the relevant party, or if a party has no registered office, its usual address of business.
- 17.2 The party to whom a notice is sent will be deemed to have received the notice:
 - (a) if sent by post, four days after it has been posted; or

- (b) if sent by facsimile, upon receipt of the fax confirmation slip or other confirmation of transaction if received by 5:00 pm on a day where You are open for business, or otherwise on the day You are open for business.

18. SEVERABILITY

- 18.1 If any provision of these Terms is or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from these Terms without affecting the validity of the remainder of these Terms and shall not affect the enforceability, legality, validity or application of any other provision of these Terms.

19. LAW

- 19.1 These Terms and all Orders are governed by the law of the jurisdiction in which the relevant T&G company placing the Order has its registered office and the parties submit to the non-exclusive jurisdiction of that jurisdiction in respect of any dispute or proceeding arising out of these Terms or any Order.