

TERMS AND CONDITIONS OF PURCHASE

SELLER IS ADVISED TO READ THESE TERMS & CONDITIONS CAREFULLY

1.0 DEFINITIONS

- 1.1 "Buyer" shall mean Premier Inn Hotels LLC or any other entity specified in the Order/RFQ (as the case may be), their servants or agents.
- 1.2 "Seller" shall mean the person, firm or company issued with the Order and any servants, permitted sub-contractors or agents of such persons, firm or company.
- 1.3 "Conditions" shall mean these terms and conditions of purchase.
- 1.4 "Intellectual Property Rights" shall mean all copyright, all other rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs, circuits layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.
- 1.5 "Order" shall mean a purchase order as may be varied by Change Orders.
- 1.6 "Change Order" shall mean an Order issued pursuant to clause 8 hereof.
- 1.7 "Work" shall mean any goods, services and/or equipment or part thereof to be provided under the order.
- 1.8 "RFQ" shall mean Request for Quotation issued by the Buyer in respect of the Work.
- 1.9 "Price" shall mean all sums payable to the Seller for performance of the Work.
- 1.10 In these Conditions unless a contrary intention appears:
 - (a) a reference to the singular includes a reference to the plural and vice-versa;
 - (b) a reference to a gender includes a reference to the opposite gender;
 - (c) a reference to a party includes a reference to its authorised employees and agents;
 - (d) headings are inserted for the purpose of convenient reference only and do not form part of this Conditions.

2.0 ACCEPTANCE OF OFFER

- 2.1 Seller shall acknowledge receipt of the Order and any Change Order by completing and returning to the Buyer, Buyer's acknowledgement form within five working days of receipt.
- 2.2 Seller's acknowledgement under clause 2.1 shall constitute Seller's acceptance of and agreement to comply with these Conditions. If the Seller fails to acknowledge receipt of the Order under clause 2.1 commencement of performance of Work shall constitute Seller's acceptance of and agreement to comply with these Conditions.
- 2.3 Any other terms and conditions of purchase to which the Seller may refer and any acknowledgement other than Buyer's returnable acknowledgement form are expressly excluded.
- 2.4 To the extent they do not conflict with these Conditions, Incoterms (latest edition) shall apply to the order.

3.0 WARRANTIES

- 3.1 The Seller warrants that the Work shall:
 - (a) confirm strictly as to the quality and description with particulars stated in the RFQ and the Order.
 - (b) be of completely new and high quality sound materials.
 - (c) be in strict compliance with samples, patents or specifications.
 - (d) meet the standard of performance specified in the Order.
 - (e) be free from defects in design and workmanship.
 - (f) be fit for the purpose for which it is supplied under the order.
- 3.2 The seller warrants that the Work shall be performed by suitably qualified and competent personnel and all equipment provided hereunder shall at all times be maintained in a satisfactory and safe operating condition by Seller. Buyer reserves the right to require the replacement of any such personnel or equipment that does not comply with the foregoing provisions at Seller's cost.
- 3.3 The Seller warrants that it is the legal and beneficial owner of the Work or any materials used in respect of the Work immediately before:
 - (a) delivery of the Work to the Buyer and
 - (b) any acceptance of the Work by the Buyer
- 3.4 The Seller warrants that the Work will at no time infringe the Intellectual property rights of any third persons.

4.0 PAYMENTS

- 4.1 In consideration of the satisfactory performance of the Work, Buyer shall pay Seller the Price in the manner hereinafter provided which shall be without prejudice to Buyer's right hereunder expressed or implied and shall not be deemed to be acceptance of any defective Work.
- 4.2 Seller shall send Buyer a detailed Invoice or Invoices as instructed on the Order clearly stating the number and the item numbers.
- 4.3 Unless otherwise specified in the order, payment will be made within thirty (30) days of receipt by appropriate representative of Buyer of both the Work and Seller's true and correct invoice at Buyer's Invoicing address.
- 4.4 Seller shall be responsible for all taxes, imposts, fees, duties and the like related to performance of the Work and shall indemnify Buyer against all liabilities, costs and expenses incurred in connection herewith, falling within Seller's jurisdiction.

5.0 ACCESS FOR EXPEDITING, INSPECTION AND TESTING

- 5.1 Buyer shall at all reasonable times be allowed to inspect and test the Work at any time prior to acceptance or delivery whichever shall be the later.
- 5.2 Buyer may reject any Work that is defective or not in compliance with clause 3. Any Work so rejected shall immediately be replaced or corrected as required by the Buyer at Seller's expense. Seller shall then re-submit the re-performed Work for re-inspection and re-testing.
- 5.3 Seller shall give Buyer not less than fourteen (14) days notice that the Work is ready for inspection and/or testing.
- 5.4 Inspection, testing or acceptance of any Work or any waiver of any rights in respect thereof by the Buyer shall not relieve Seller from any obligations under the Order or otherwise, including without limitations, responsibility for any defects subsequently found in materials and/or workmanship.

6.0 COMPLETION AND DELIVERY

- 6.1 The Work shall be completed and delivered by the date specified in the order.
- 6.2 If Seller shall fail to commence performance of the Work on receipt of the Order or if it appears to the Buyer that the Seller may not be able to complete the Work by the required date Buyer may terminate the Order or any part thereof in accordance with the provisions of clause 11.
- 6.3 Delivery of the Work shall be effected in the manner(s) and at time(s) specified by the Buyer. If the Work is not delivered in accordance with the Buyer's requirements, Seller shall be responsible for any for any additional risk and expense arising therefrom. Unless otherwise provided, Seller shall be responsible for and bear the cost of packing, loading and/or carriage of the Work.

7.0 DEFECTS

- 7.1 The Warranty period is 12 (twelve) months from the date the Work is put into service by the Seller for its specified use (the "Warranty Period")
- 7.2 The Seller shall be responsible for remedying at its expenses any defects that may arise in the Work during the Warranty period. Seller shall guarantee for a further period of twelve (12) months all remedial work carried out under this warranty. Where a defect arises within the warranty period but does not become apparent until the warranty period has expired Seller's liability shall not cease merely because Buyer has been unable to give notice of the defect to the Seller within the said warranty period. If any defect which the Seller is obliged to remedy under this clause are not remedied within a reasonable time or circumstance render it impracticable for the Seller to do the same, Buyer may do so himself or authorise other to do the same and the Seller shall reimburse buyer for all cost arising therefrom.
- 7.3 Buyer is at all times relying on the skill and knowledge of the Seller. If the Work fails to attain the performance specified by the Buyer in the Order, such failure shall be a defect within the meaning of clause 7.2.
- 7.4 This warranty and Buyer's remedies hereunder are in addition to Buyer's other rights and remedies existing under the Order or at Law.

8.0 CHANGE ORDERS

- 8.1 Seller shall perform any changes to the Work required by Buyer which may include additions to or reductions in the quantity and quality of Work. Buyer shall give notice of such changes to Seller in writing who shall promptly advise Buyer in writing of their reasonable effect on Price and delivery date. Subject to clause 8.2, no change shall be accepted by Buyer unless authorised by written instruction and confirmed by Change Order.
- 8.2 In the event that the parties are unable to agree on the reasonable effect on Price and delivery date, Buyer shall nevertheless have the right to require Seller to proceed with the change forthwith.

9.0 ASSIGNMENT AND SUB-CONTRACTING

- 9.1 Seller shall not assign or sub-contract the Order without Buyer's prior written consent. No assignment or sub-contract shall relieve Seller of any of its obligations under the order. These Conditions shall be applied in all sub-contracts entered into by Seller.

10.0 STATUTORY AND SAFETY OBLIGATION

- 10.1 Seller shall in performing the Order comply with all applicable laws, regulations, customs and good practice and where appropriate shall comply with Buyer's Safety Requirements for Contractors.
- 10.2 Sellers shall provide Buyer in writing with such information as is necessary relating to the use of any goods and/or equipment supplied and/or used and its design, testing and use, relating to any conditions necessary to ensure it will be safe and without risk to health when property handled, stored, transported and used.

11.0 SUSPENSION AND TERMINATION

- 11.1 Buyer shall be entitled to terminate or suspend the Order in respect of the Work by giving notice in writing to Seller at any time prior to delivery of the Work, in which event Buyer's sole liability shall be to pay Seller for all Work satisfactorily performed up to the date of termination or suspension specified in such notice and reasonable and substantial cancellation charges on sub-contracts placed by Seller in accordance with clause 9.
- 11.2 Buyer is not liable for any consequential loss or loss of profits suffered by Seller as a result of termination or suspension of the Order by the Buyer pursuant to clause 11.1.
- 11.3 Buyer shall be entitled to terminate or suspend the Order by giving notice to the Seller at any time if-
 - (a) Seller is in default of any obligations hereunder including without limitations compliance with any delivery date; or
 - (b) Seller becomes insolvent, makes any voluntary arrangement with its creditors, (being an individual or firm) becomes bankrupt, (being a company) becomes subject to an administration order, goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction), or a receiver is appointed over any of the property or assets of the Seller.
- 11.4 Without prejudice to Buyer's other rights on suspension or termination, Buyer shall be entitled to enter Seller's premises or any place where the Work is situated and take possession of the whole or any part of the Work and remove the same, and title thereto (insofar as the same shall not already be vested in Buyer) shall forthwith vest in Buyer.

12.0 TITLE AND RISK

- 12.1 Title in the Work shall pass to the Buyer on either:
 - (a) Payment for the Work (when title shall pass in proportion to the payments made thereof); or
 - (b) Acceptance of the Work by Buyer at the specified delivery point, whichever occurs first.
- 12.2 Notwithstanding passage of title (in whole or in part) on the occurrence of clause 12.1 (a) above, risk shall remain with Seller until delivery or until acceptance of the Work by Buyer in accordance with the provisions of the Order whichever shall be later.
- 12.3 All the materials and equipment to be incorporated in the Work the title of which has passed to the Buyer shall be clearly marked as Buyers property and shall be stored separately from Seller's property.

13.0 INDEMNITIES

- 13.1 Seller shall indemnify, defend and hold harmless Buyer against any action, liability, cost or expenses whatsoever arising by reason of:
 - (a) the breach of any applicable provisions of these Conditions;
 - (b) any infringement or alleged infringement of the Intellectual Property Rights of any persons other than the Buyer relating to the Work;
 - (c) injury to, or death of, any persons caused or contributed to be the negligence or beach of contract or other legal duty of Seller or, irrespective of the negligence or breach of duty of Buyer, loss or damage to any property; and
 - (d) all consequential or indirect losses (whether foreseeable or not) incurred by Seller, irrespective of the negligence or breach of duty of Buyer.

13.2 Seller shall maintain such insurance cover

- (a) against the liabilities referred to in clause 13.1 c); or
- (b) otherwise required in relation to the supply of the Work; and shall provide to Buyer on demand valid certificate of insurance in respect thereof.

14.0 FORCE MAJEURE

- 14.1 If either party is unable to perform an obligation under these Conditions, by reason of circumstance beyond its reasonable control and which could not have been avoided or overcome by the use of reasonable diligence and foresight, the party concerned shall immediately notify the other party in writing, provide an estimate of how long such circumstances are likely to continue and shall be entitled to a reasonable extension of time for performance.

15.0 LIENS AND CLAIMS

- 15.1 Seller agrees to pay, discharge and hold Buyer harmless from all liens, claims (including legal fees and other expenses incidental thereto), judgements and awards which may arise out of or in connection with this order. Seller shall at Buyer's request, furnish proof satisfactory to Buyer that all such liens, claims, suits, judgement and awards have been satisfied or released. Buyer shall also have the right to make payment direct to any holder of such lien or claimant such payments to be reimbursed by Seller on demand.

- 15.2 Seller agrees to waive any right to exercise a lien, to make a claim or seek enforcement of a judgement or award against the Work at any time and acknowledges that its sole right in the event of any failure by Buyer to perform any of its obligations under the Order is to seek financial relief in respect thereof.

16.0 INTELLECTUAL PROPERTY RIGHTS

- 16.1 Seller irrevocably assigns its entire right, title and interest to any Intellectual property rights it may have at any time in the Work (the 'Seller Intellectual Property Rights') to Buyer including the right to initiate court or other proceedings or to take any other action against any person for infringement of the Seller's Intellectual Property Rights.
- 16.2 All patterns, tools, drawings or documents, whether in hard copy or otherwise, supplied by Buyer shall remain Buyer's property and shall not be used by Seller in the service of any other company. All such items shall be returned to Buyer upon completion of the Work or at Buyer's instruction.

17.0 ERRORS

- 17.1 Seller shall immediately notify Buyer in writing of any error, omission, deficiency, ambiguity or contradiction in the Order and shall not commence or continue with the performance of the Work until written clarification from Buyer has been obtained.

18.0 LAW AND LANGUAGE

- 18.1 The Order and these Conditions shall be governed and construed in all respects in conformity with the laws of, and applicable in, Dubai, United Arab Emirates.
- 18.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of Dubai.
- 18.3 All documents provided by the Seller in connection with this Order shall be in the English Language.
- 18.4 The United Nations Conventions on Contracts for the International Sale of Goods will not apply to these Conditions.

19.0 NOTICES

- 19.1 Notices shall be validly given if sent by facsimile, telex or recorded delivery port to the respective addresses of the parties stated on the Order or to any address subsequently notified in writing by one party to the other.

20.0 ENTIRETY

- 20.1 The Order documents constitute the entire agreement between the parties and supersedes all prior agreements and understanding written or oral.

21.0 WAIVER

- 21.1 A failure or delay in exercise or partial exercise of a right arising from a breach of any provision of these Conditions is not to be regarded as a waiver of that right and cannot be relied upon as a waiver of that right.

22.0 DISPUTE RESOLUTION

- 22.1 The parties acknowledge that in order to minimise any disruption which may result from a dispute or difference they will attempt to resolve such dispute or difference prior to taking any further action to resolve the dispute.
- 22.2 If a dispute arises out of or relates to these Conditions or the breach, termination, validity or subject matter of these Conditions, the parties may agree in writing to submit the dispute to arbitration.
- 22.3 If a dispute is referred to arbitration in accordance with clause 22.2 then the dispute will be referred to and finally resolved by arbitration under the Rules of Arbitration of the Dubai International Arbitration Centre (the 'DIAC')
- 22.4 The tribunal established under the rules of DIAC will consist of a sole arbitration sitting in Dubai and proceeding under the tribunal will be held in the English Language.
- 22.5 The parties agree to accept the determination of the DIAC as final and binding.