



Title

**Supplier Purchase Order
Terms & Conditions**

Quality Management
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FR1035C

SUPPLIER PURCHASE ORDER TERMS & CONDITIONS

Frosts Landscape Construction Ltd
Liscombe Central, Liscombe Park
Soulbury, Leighton Buzzard, LU70JL



Title

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Quality Management
System Document

FR1035C

CONTENTS

1	DEFINITIONS	3
2	BASIS OF THE CONTRACT	3
3	DRAWINGS AND INFORMATION	3
4	TECHNICAL DATA	4
5	QUALITY, MATERIALS, DESIGN AND WORKMANSHIP	4
6	ASSIGNMENT AND SUB-CONTRACTING	4
7	INSPECTION AND TESTING	4
8	CHANGES/ORDER AMENDMENTS	4
9	PATENTS AND INTELLECTUAL PROPERTY	5
10	COMPLETION AND DELIVERY	5
11	ADVERTISING	5
12	TERMINATION FOR DEFAULT OR INSOLVENCY	5
13	TERMINATION GENERALLY	6
14	PRICES	6
15	PAYMENT	6
16	TITLE AND RISK	7
17	INDEMNITIES	7
18	LIENS	7
19	CONFIDENTIALITY	8
20	GENERAL	8
21	DISPUTE RESOLUTION	8
22	ENGLISH LAW AND JURISDICTION	8
23	APPROVAL SIGNATURES	9



Title

Supplier Purchase Order Terms & Conditions

Quality Management
System Document

FR1035C

1 DEFINITIONS

"Frosts"	Frosts Landscape Construction Limited.
"Completion Date"	the date for completion of the Product as specified in the Order or any Order Amendment.
"Order"	Frosts purchase order together with all documents referred to therein or attached thereto by Frosts Landscape Construction and these conditions and any additional conditions imposed by the Client whether as referred to herein below or otherwise.
"Order Amendment"	a variation or order issued pursuant to Clause 9.
"Performance"	the manufacture, ordering goods, entry on site and installation if applicable or setting aside goods or materials for the purposes of the Order.
"Price"	all sums payable to the Supplier for performance of the Product as stated in the Order.
"Product"	all goods and/or services to be supplied pursuant to the Order whether as expressly described in the Order or to be inferred therefrom.
"Supplier"	the person, firm or company with whom this Order is placed.
"Specification"	includes any plans, drawings, data, or other information relating to the goods and or services, to which the goods and or services supplied shall conform.

2 BASIS OF THE CONTRACT

- 2.1 These conditions instructions and all documents issued by Frosts Landscape Construction in connection with this Order or referred to therein whether printed, typed or handwritten shall form part of this Order. No amendment, modification, instruction, variation, waiver or change shall have effect unless in writing and signed on behalf of Frosts Landscape Construction by an authorised signatory.
- 2.2 The Order as defined herein shall govern Frosts contractual relationship with the Supplier and unless expressly accepted in writing signed on behalf of Frosts by an authorised signatory no terms inconsistent herewith shall have effect. In the event that the Supplier commences Performance before countersigning or otherwise expressly and unconditionally accepting the Order, then such act of commencement shall be deemed to be an unqualified acceptance of the Order upon these conditions.
- 2.3 The Supplier's terms and conditions are expressly excluded and no term or condition of the Supplier shall have any legal effect unless expressly accepted in writing by Frosts Landscape Construction and signed on behalf of Frosts by an authorised signatory.

3 DRAWINGS AND INFORMATION

- 3.1 No drawings, designs, specifications, know how or other information provided in connection with the Order by Frosts or its servants or agents (including all features whether patented or patentable or not and whether separately or collectively shown) nor any other intellectual copyright matter so provided may be reproduced in whole or in part nor used for any purpose other than the execution of the Order. All such drawings, designs and other matters are provided on loan only to the Supplier and are subject to immediate return upon demand.
- 3.2 The Supplier at its own expense shall prepare and submit for approval such drawings as may be required by Frosts but approval by its servants or agents or any third party shall in no sense relieve the Supplier from any of its obligations under the Order. No drawings shall be varied or modified after such approval in any respect without prior written approval from Frosts which if necessary, shall be promptly applied for in good time with full supporting explanation and particulars.
- 3.3 Frosts Landscape Construction is hereby granted an irrevocable and perpetual royalty free licence to use and reproduce for any purpose all copyright matter produced by Supplier or its servants or agents pursuant to this Order.



Title

Supplier Purchase Order Terms & Conditions

Quality Management
System Document

FR1035C

- 3.4 Any such drawings, designs and other matter shall be regarded by the Supplier as secret and confidential and shall not without the consent in writing of Frosts Landscape Construction be published or disclosed to any third party except for the purposes of implementing the Order.

4 TECHNICAL DATA

- 4.1 The Supplier shall be responsible for any errors or omissions in any information, drawings, packing details or any other documents produced by it, whether such information has been approved by Frosts or not.
- 4.2 In the event that the Supplier discovers any ambiguity or discrepancy in the drawings, specification and documents issued in connection with the Order or subsequently whether by way of Order Amendment or otherwise, the Supplier shall immediately submit the ambiguity or discrepancy to Frosts for its determination.

5 QUALITY, MATERIALS, DESIGN AND WORKMANSHIP

- 5.1 The Product shall be supplied strictly in accordance with the Order and any Order Amendments. Materials shall be of satisfactory quality and materials and workmanship shall be fit for their respective intended purposes and in conformity absolutely with the particulars of the Order. The Product shall only be accepted after it has in the opinion of Frosts Landscape Construction satisfied the requirements of the Order. In so far as the Product involves any design on the part of the Supplier, the design shall be such that the Product is fit for its purpose.
- 5.2 Frosts Landscape Construction shall be deemed not to have any intrinsic expert or specialist knowledge or skill in relation to the Order and the Supplier is deemed to be aware of and to accept this.

6 ASSIGNMENT AND SUB-CONTRACTING

- 6.1 The Supplier shall not assign the Order (nor sub-contract any major part of the Order) without Frosts' prior written consent (such consent shall not be unreasonably withheld). No assignment or sub-contract (even with Frosts' consent) shall relieve the Supplier of any of its obligations under the Order. Frosts Landscape Construction may assign the Order at any time.

7 INSPECTION AND TESTING

- 7.1 Frosts Landscape Construction and its representatives shall at all reasonable times be granted access to any premises (including those of the Supplier's suppliers) and be allowed to inspect and test the Product at any time prior to acceptance of delivery.
- 7.2 Frosts Landscape Construction or its representatives shall have the option to reject any Product that it considers to be defective or inferior in quality of material, workmanship or design and/or not in accordance with the Order in any respect. Any Product so rejected shall immediately be replaced in its entirety or corrected as required by Frosts Landscape Construction or its representative at the Supplier's expense. The Supplier shall then re-submit to Frosts Landscape Construction the replacement or corrected Product for re-inspection and re-testing.
- 7.3 Neither inspection, testing nor acceptance of any Product nor any waiver of any rights in respect thereof by Frosts Landscape Construction nor its representative shall release the Supplier in any respect from any of its obligations under the Order or otherwise including without limitation its responsibility for any defects subsequently found in materials and/or workmanship.

8 CHANGES/ORDER AMENDMENTS

- 8.1 The Supplier shall carry out any changes to the Product required by Frosts Landscape Construction which without limitation may include alterations in the quantity of the Product as well as additions or omissions to the scope and subject matter of the Product or to the delivery arrangements and no change shall vitiate the Order. No such changes shall be complied with unless expressed by way of written Order Amendment from Frosts to the Supplier signed by an

	Title Supplier Purchase Order Terms & Conditions	Quality Management System Document FR1035C
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authorised signatory of Frosts. All changes shall be valued at the rates and prices set out in the Order. If the rates and prices in the Order are not applicable to the changes then suitable rates based on those in the Order shall be agreed between Frosts and Supplier.

9 PATENTS AND INTELLECTUAL PROPERTY

- 9.1 The Supplier shall indemnify and save harmless Frosts Landscape Construction against and from all actions, liabilities, claims, demands, proceedings, losses, damages, expenses, costs, fees, charges whatsoever or howsoever arising out of or in connection with the infringement of any patent or other intellectual property right in respect of the Product supplied hereunder or in relation thereto save where the patent or other intellectual property right is supplied by Frost'.

10 COMPLETION AND DELIVERY

- 10.1 The Product shall be completed and/or delivered by the Completion Date. Further the Supplier shall complete and/or deliver the Product to any programme Frosts may issue from time to time or to any revision thereof. Time to be of the essence.
- 10.2 The Supplier shall immediately report any delay or anticipated delay whatsoever and its cause and shall keep Frosts Landscape Construction fully informed with dates of anticipated actual delivery and shall use its best endeavours (without prejudice to its other contractual obligations) to eliminate such cause or causes of delay.
- 10.3 If the Supplier shall fail to commence performance of the Order on the starting date or if Frosts Landscape Construction considers that the Supplier may not be able to complete the Order by the Completion Date or if in fact the Supplier shall fail to do so, then in either event Frosts Landscape Construction may determine the Order or any part thereof and the provisions of Clause 15 shall apply.
- 10.4 Delivery of the Product shall be affected in the manner and at the time or times specified by Frosts Landscape Construction and if the Product is not delivered accordingly then the Supplier shall be fully responsible for any additional expenses arising therefrom. In any event unless otherwise provided the Supplier shall be responsible for despatch delivery (including packaging, loading and if so required unloading) to the site designated by Frosts.
- 10.5 The Product upon delivery shall be accompanied by an advice note showing the Order number, date of delivery, the quantity, weight and full description of the goods delivered.
- 10.6 The Supplier shall upon delivery obtain a receipt for the Product signed by an authorised signatory of Frosts. Such receipt shall be upon a duplicate copy of the advice note and shall be forwarded to Frosts with the Supplier's invoice.
- 10.7 Deliveries will only be accepted by Frosts Landscape Construction between 8:30am and 3:00pm unless by prior written arrangement with Frosts.

11 ADVERTISING

- 11.1 No advertising, publicity matter or other literature in relation to the Product or to the associated project is to be published, released or utilised by the Supplier except with the prior written permission of Frosts Landscape Construction signed by an authorised signatory.

12 TERMINATION FOR DEFAULT OR INSOLVENCY

- 12.1 In the event of any default by Supplier in performance of any of its obligations, which in the opinion of Frosts Landscape Construction constitutes a material breach of such obligation or obligations, then Frosts Landscape Construction may forthwith determine the Order by notice in writing. No forbearance whether by allowing an opportunity to rectify such default or breach or otherwise shall constitute a waiver of Frosts' rights to determine and the exercise of the rights to determine shall be without prejudice to any of Frosts' other rights arising under the Order or otherwise.
- 12.2 In the event of the Supplier compounding or entering into any arrangement with its creditors whether a Voluntary Arrangement or otherwise or going into bankruptcy or into creditors' voluntary liquidation or compulsory winding-up or having an administrator or administrative



Title

Supplier Purchase Order Terms & Conditions

Quality Management
System Document

FR1035C

receiver or provisional liquidator appointed then Frosts Landscape Construction shall be entitled forthwith or at any time thereafter to determine the Order by serving notice in writing to any business address of the Supplier without prejudice to any of Frosts' other rights under the Order or otherwise.

- 12.3 For the avoidance of doubt no determination, whether pursuant to Clause 12 or Clause 13 shall adversely affect the operation of any Clause of the Order giving rights to Frosts.
- 12.4 In the event of determination pursuant to Clause 12 or Clause 13 Frosts Landscape Construction shall be entitled to enter the Supplier's premises or any place where the Product is situated in whole or in part and take possession of the whole or any part of the Product and remove the same and title thereto (insofar as the same shall not already be vested in Frosts) shall forthwith vest in Frost Landscape Construction and conversely Frosts Landscape Construction shall be entitled to repudiate title in or otherwise reject any goods which it does not require.
- 12.5 In the event of determination pursuant to this Clause 12 such determination shall be treated as a repudiation of the contract between the Supplier and Frosts Landscape Construction and which repudiation has been accepted by Frosts.

13 TERMINATION GENERALLY

- 13.1 Frosts Landscape Construction shall be entitled at any time to determine the Order in whole or in part by serving notice in writing upon the Supplier to that effect and thereupon the Supplier shall cease all performance unless to the extent otherwise provided by Frosts Landscape Construction in the said notice of termination. In the event of such termination Frosts Landscape Construction shall fully discharge all liabilities to the Supplier by making payment pursuant to the terms hereof within a reasonable period of time for all Product satisfactorily performed up to the date of determination together with all goods and materials properly procured by the Supplier for incorporation in the Product which had not yet been incorporated at that time and a reasonable sum in respect of cancellation charges in respect of orders for supply pursuant to its obligations hereunder which the Supplier had properly placed subject to evidence of such orders being provided by the Supplier. In the event of payment being made for such goods and materials then title therein shall pass forthwith to Frosts.
- 13.2 Despite the provisions of Clause 13.1 hereinabove under no circumstances shall the payment thereunder exceed, when added to sums previously paid or otherwise due, the amount which would have been payable to the Supplier had this Order not been determined and Supplier had therefore received payment in full pursuant to Clause 15.

14 PRICES

- 14.1 All prices are fixed for the duration of the Order and are not subject to fluctuations or variation.

15 PAYMENT

- 15.1 All payments hereunder shall be made in Pounds Sterling. Frosts Landscape Construction reserves the right to make payments by BACS.
- 15.2 Unless otherwise stated in the Order the Supplier may invoice Frosts Landscape Construction within 60 days after delivery of the Product.
- 15.3 The Supplier's invoice shall contain:
- 15.3.1 The Order number.
 - 15.3.2 A full description including quantity of the Product.
 - 15.3.3 The number and date of the advice note.
 - 15.3.4 The total value of the invoice indicating the materials and labour element separately where applicable.
 - 15.3.5 Value Added Tax where applicable shall be shown separately on all invoices.



Title

Supplier Purchase Order Terms & Conditions

Quality Management
System Document

FR1035C

- 15.4 Unless otherwise stated in the Order, an invoice becomes due for payment 60 days following the end of the month in which the Invoice is dated. Unless otherwise stated in the Order the rates and prices stated in the Order are deemed to be sufficient to cover all the Supplier's obligations whether expressed or implied and without prejudice to the generality of the foregoing where the Product or any part thereof is to be performed otherwise than at the Supplier's premises then the Supplier shall be deemed to have satisfied itself as to all local conditions requirements or difficulties or any other factors which may in any way affect the performance of the Product.
- 15.5 Frosts Landscape Construction shall have the right to set off against any sum due to the Supplier howsoever arising at any time any claim, damage, loss, expense, abatement or other liability or cost which it may have or sustain under this or any other contract between Frosts Landscape Construction or the Supplier or any associated company to the Supplier and shall likewise be entitled to deduct any such sum in respect of any claim, damage, loss, expense or other liability or cost sustained.

16 TITLE AND RISK

- 16.1 Title in the Product shall pass from the Supplier to Frosts Landscape Construction on the sooner of the creation of the relevant goods forming the whole or part of the Product of those goods or allocation from stock or acquisition by the Supplier. Notwithstanding the passing of title the risk in such goods shall remain with the Supplier until delivery or until acceptance of the Product by Frosts Landscape Construction in accordance with the provisions of the Order whichever shall be later.

17 INDEMNITIES

- 17.1 The Supplier shall indemnify and save harmless Frosts Landscape Construction against and from any actions, liabilities, claims, demands, proceedings, losses, damages, expenses, costs, fees, charges whatsoever or howsoever arising out of or in connection with any and all of the following:
- 17.1.1 The breach of ANY provision of this Order.
 - 17.1.2 Injury, loss or damage to persons or property contributed to or caused by the negligence or breach of duty of the Supplier its servants or agents or otherwise arising out of or in the course of or caused by the acts, omissions or defaults of the Supplier, its servants or agents pursuant to the Order (save where the injury, loss or damage is caused solely by the negligent act or omission of Frosts).
 - 17.1.3 All third-party allegations, liens, claims, arrestment's, garnishees, executions, judgments and awards (including expenses) whether groundless or not which may arise out of or in connection with this Order.
- 17.2 The Supplier shall at Frosts request furnish proof satisfactory to Frosts Landscape Construction that all such liens and claims, judgments and awards etc., as referred to in Clause 17.1.3 have been satisfied or released and further agrees that Frosts Landscape Construction shall have the right to make payment direct to such third party and recover such payments from the Supplier as a contract debt.
- 17.3 The Supplier shall maintain insurance cover against such liabilities as are referred to at Clause 17 and shall provide to Frosts Landscape Construction on demand valid certificates of insurance in respect thereof.

18 LIENS

- 18.1 The Supplier agrees to waive any right to exercise a lien upon the Product or upon any materials, component parts, work in progress and, relevant drawings and acknowledges that its sole remedy in the event of any breach by Frosts Landscape Construction of its obligations under the Order is to seek financial relief through the courts. As and when required by Frosts Landscape Construction the Supplier shall give a certificate of waiver of lien, and of any other rights over the Product or to any injunctive or performance remedies to Frosts Landscape Construction or to any third party nominated by Frosts.

	Title Supplier Purchase Order Terms & Conditions	Quality Management System Document FR1035C
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19 CONFIDENTIALITY

- 19.1 The Supplier shall not, either during the period of this Contract or at any subsequent time, disclose to any other person any technology or other information disclosed to it by Frosts Landscape Construction pursuant to this Sub-Contract, and shall use its best endeavours to keep the same confidential (whether marked as such or not).

20 GENERAL

- 20.1 Nothing in these conditions shall create, or be deemed to create, a partnership between the parties.
- 20.2 If any provision of these conditions is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of this Agreement and the remainder of the affected provisions shall continue to be valid.
- 20.3 Any notice or other information required or authorised by these conditions to be given by either party to the other may be given by hand or sent (by first class pre-paid post, email, cable, facsimile transmission or comparable means of communication) to the other party at the address referred to in the Order.
- 20.4 Any notice or other information given by post under Clause 20.4 which is not returned to the sender as undelivered shall be deemed to have been given on the second day after the envelope containing the same was so posted; and proof that the envelope containing any such notice or information was properly addressed, and sent by first class, pre-paid post, and that it has not been so returned to the sender, shall be sufficient evidence that such notice or information has been duly given.
- 20.5 Service of any legal proceedings concerning or arising out of these conditions shall be affected by causing the same to be delivered to the registered office of the party to be served, or to such other address as may be notified by the party concerned in writing from time to time.

21 DISPUTE RESOLUTION

- 21.1 If any dispute arises out of or in connection with the Order the parties will attempt to settle it by negotiation.
- 21.2 If any dispute cannot be resolved by negotiation, then
- 21.2.1 If and insofar as the Act applies to the Order, then the Technology and Construction Solicitors' Association adjudication rules are hereby incorporated into the Order save that any adjudicator appointed shall not have any right to decide on his own jurisdiction and shall decide the dispute only in relation to the parties legal rights.
- 21.2.2 If not applicable then the dispute shall be referred to an independent expert with appropriate qualification and practical experience to be agreed between the parties, or if they fail to agree shall be appointed by the President for the time being of the Law Society of England and Wales.
- 21.2.3 For the avoidance of doubt the provisions of this Clause provide for an alternative form of dispute resolution and are not a reference to arbitration.

22 ENGLISH LAW AND JURISDICTION

- 22.1 Save where otherwise specifically agreed in writing and signed by an authorised signatory of Frosts, the Order shall in all respects be construed in accordance with the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction.



Title

**Supplier Purchase Order
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Quality Management
System Document

FR1035C

SIGNED BY AN AUTHORISED SIGNATORY

FOR AND ON BEHALF OF

FROSTS LANDSCAPE CONSTRUCTION LTD

Signed:

Name:

Job title:

SIGNED BY AN AUTHORISED SIGNATORY

FOR AND ON BEHALF OF SUPPLIER (name).....

Signed:

Name:

Job title: