

General Terms and Conditions of Contract

Purchase of Goods and Services



IPPR01-TAC03

Rev 6
Date Sept 2012

1 INTERPRETATION

- 1.1 In these Conditions:
"NDA" means The Nuclear Decommissioning Authority, Herdus House, Westlakes Science and Technology Park, Moor Row Cumbria, CA24 3AU.
"Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between NDA and the Supplier;
"Contract" means the Order and the Supplier's acceptance of the Order;
"Delivery Address" means the address for delivery of Goods or performance of Services as stated in the Order;
"Goods" means the goods (including any instalment of the goods or any part of them) described in the Order;
"Intellectual Property" means inventions, patents, processes, designs, design rights (whether registrable or not), rights in databases, copyright (including in software), moral rights and all other rights or forms of protection (whether or not registrable and including applications for registration) of a similar nature or having a broadly equivalent effect anywhere in the world;
"Order" means NDA's written instructions to supply the Goods or perform the Services as set out on its official order form, incorporating the Conditions and any Specification;
"Price" means the price of the Goods and/or the charge for the Services;
"Supplier" means the person to whom the Order is addressed;
"Services" means the services (if any) described in the Order;
"Specification" includes any plans, drawings, data or other information relating to the Goods or Services;
"Writing" includes facsimile transmission, e-mail and comparable means of communication.

2 BASIS OF PURCHASE

- 2.1 The Order constitutes an offer by NDA to purchase the Goods and/or acquire the Services subject to these Conditions and no Order shall be accepted until the Supplier either expressly accepts it by notice in Writing or impliedly by fulfilling the Order.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which a quotation has been given to NDA or subject to which the Order is accepted or purported to be accepted by the Supplier.
- 2.3 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of NDA and the Supplier.

3 PERFORMANCE

- 3.1 The quantity, quality and description of the Goods and the Services shall in all respects conform with the Order.
- 3.2 The Supplier shall comply with all applicable laws, regulations and codes of practice and observe good environmental practice in connection with the provision of the Goods and/or Services under the Contract.
- 3.3 Where the Supplier is required to perform any services or carry out any work in connection with any Order on NDA's (or any of NDA's customers') premises, then the Supplier shall acquaint itself and all its personnel engaged in the provision of any of the relevant Goods and/or Services, and ensure that such personnel comply, with all regulations and rules in force on such premises.

4 PRICE OF THE GOODS AND SERVICES

- 4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be exclusive of any applicable value added tax (which shall be payable by NDA subject to receipt of a VAT invoice) but inclusive of all other charges including for packaging, delivery, travel, accommodation and any duties or taxes.
- 4.2 No increase in the Price may be made without the prior consent of NDA in Writing.

5 TERMS OF PAYMENT

- 5.1 The Supplier shall be entitled to invoice NDA on or at any time after delivery of the Goods or performance of the Services, and each invoice shall quote the number of the Order.
- 5.2 Unless otherwise stated in the Order, NDA shall pay the Price of the Goods and/or the Services within 30 days after the end of the month of receipt by

NDA of a proper invoice or, if later, after acceptance of the Goods or Services in question by NDA.

- 5.3 If any sum under the Contract is not paid when due then, without prejudice to the NDAs' other rights under the Contract, that sum shall bear interest from the due date until payment is made in full, both before any after and judgment, at 2% per annum over Bank of England base rate from time to time. The Supplier is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

- 5.4 Where the Supplier enters into a sub-contract with a supplier, for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice

6 DELIVERY

- 6.1 The Goods shall be delivered to, and/or the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order together with such supporting documentation as NDA may reasonably require. Unless otherwise stated in the Order delivery and performance at the Delivery Address shall take place during NDA's usual business hours.

- 6.2 Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of Order, the Supplier shall give NDA reasonable notice of the specified date.

- 6.3 NDA shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until NDA has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

7 RISK AND PROPERTY

- 7.1 The Goods shall remain at the risk of the Supplier until delivery to NDA is complete in accordance with the Order. Property in the Goods shall pass to NDA on delivery, unless payment for the Goods is made prior to delivery, when it shall pass to NDA once payment has been made and Goods have been appropriated to the Contract.

8 INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- 8.1 All Intellectual Property created by or on behalf of the Supplier in connection with the Contract shall be and become NDA's exclusive property with effect from its creation and NDA shall have full and free right to use such Intellectual Property and any matters to which it relates as NDA sees fit. The Supplier may use such Intellectual Property only as properly and reasonably required to perform the Contract.

- 8.2 The Supplier grants NDA a non-exclusive, worldwide, perpetual, transferable, royalty-free licence (including the right for NDA and any sub-licensee to sub-license) in respect of all Intellectual Property which does not belong to NDA under Condition 8.1, but is necessary to use the Goods and / or obtain the full benefit of the Services supplied.

- 8.3 The Supplier shall and shall procure that its agents, employees and sub-contractors shall execute any documents or do anything else reasonably required by NDA to obtain, maintain, defend, enforce and secure full and free right to use those Intellectual Property rights referred to in Condition 8.1 and to secure the licences referred to in Condition 8.2.

- 8.4 The Supplier will indemnify and hold NDA harmless against any costs (including legal costs) and damages that may be awarded or agreed to be paid in respect of any allegation, claim or action that any Goods supplied by the Supplier infringe any Intellectual Property or other rights of any third party anywhere in the world.

- 8.5 All documents, designs, drawings, photographs, specifications, data and commercial know-how disclosed by NDA to the Supplier and any confidential information concerning NDA's business or operations which the Supplier may obtain remain the sole and exclusive property of NDA (or its licensors) and are to be treated as confidential by the Supplier and shall not be copied or used for any purpose other than for performing the Contract without the previous

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- consent in writing of NDA. All such items are to be returned to NDA on request.
- 9 WARRANTIES LIABILITY AND INSURANCE**
- 9.1 The Supplier warrants to NDA that the Goods:
- (a) will be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier in Writing at the time the Order is placed;
 - (b) will be free from defects in design, material and workmanship;
 - (c) will correspond with any relevant Specification or sample; and
 - (d) will comply with all applicable laws, regulations and codes of practice.
- 9.2 The Supplier warrants to NDA that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for NDA to expect in all the circumstances.
- 9.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then NDA shall be entitled:
- (a) to require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days; and/or
 - (b) to rescind the Contract and require the repayment of any part of the Price which has been paid.
- 9.4 The Supplier shall indemnify NDA in full for all loss, liability, damage, cost, claims or expense incurred or suffered by NDA as a result of any breach of any of the provisions of the Contract or as a result of any act or omission of the Supplier (including the Supplier's employees, agents and sub-contractors) in connection with the Contract, except to the extent that the same is directly attributable to the negligence of NDA.
- 9.5 If under the terms of the Order the Supplier is required to perform services or carry out work on NDA's premises or any premises other than those of the Supplier, the Supplier shall take out and maintain a policy or policies of insurance with a reputable insurance company in respect of all and any liability whatsoever arising under law, statute or otherwise, for all damage or injury to any property or person arising from or caused in any way by the execution by the Supplier of such work or the performance of such services, and shall produce the said policy or policies on demand to NDA.
- 9.6 Neither the Supplier nor NDA shall have any liability or be deemed to be in breach of the Contract for any delays or failures in performance of this Contract which result from circumstances beyond the reasonable control of that party. The party affected by such circumstances shall promptly notify the other party in Writing when such circumstances cause a delay or failure in performance and when they cease to do so.
- 10 TRANSPARENCY AND DISCLOSURE**
- 10.1 Without prejudice to the rights of NDA under Condition 8, the Supplier acknowledges that NDA operates a transparency policy and associated Code of Practice on Access to Information under which information (such as correspondence, e-mails, minutes of meetings and reports) provided by the Supplier to NDA may be disclosed from time to time at NDA's discretion into the public domain. A copy of the Code of Practice is available on request or by accessing NDA's website.
- 10.2 The Supplier acknowledges that the NDA is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and shall assist and co-operate with the NDA (at the Supplier's expense) to enable the NDA to comply with these information disclosure requirements.
- 11 SECURITY CLEARANCE**
- 11.1 The Supplier's personnel may be subject to vetting by NDA on behalf of the Office for Civil Nuclear Security prior to commencing any Services under the Contract.
- 11.2 Where for any reason such person fails to obtain the necessary security clearance the Supplier shall nominate such other person(s) as may be required as a replacement. It is the Supplier's responsibility to ensure that sufficient personnel obtain the security clearance necessary to enable the Supplier to fully discharge its obligations under the Contract. If the Supplier is unable to do so within a reasonable time then NDA may, without liability, by notice in Writing immediately terminate the Contract.
- 11.3 The Supplier's attention is drawn to the provisions of the Official Secrets Act 1911 to 1989 and to the provisions of Section 11 of the Atomic Energy Act 1946.
- 12 TERMINATION**
- 12.1 NDA shall be entitled to cancel the Order in respect of all or part only of the Goods and/or Services by giving notice in Writing to the Supplier at any time prior to delivery or performance, in which event NDA's sole liability shall be to pay to the Supplier the Price for the Goods or Services in respect of which NDA has exercised its right of cancellation, less the Supplier's net saving of cost arising from cancellation.
- 12.2 NDA shall be entitled to terminate the Contract without liability to the Supplier by giving notice in Writing to the Supplier at any time if:
- (a) the Supplier appears to NDA to be unable to pay his debts or presents his own or has presented against him a bankruptcy petition or a bankruptcy order is made against him, or the Supplier takes any formal step to implement an individual voluntary arrangement (within the meaning of the Insolvency Act 1986); or
 - (b) the Supplier's financial position is such that either the Supplier, its directors, shareholders or creditors take or are entitled to take steps to institute formal insolvency proceedings with respect to the Supplier of a type provided for by the Insolvency Act 1986 (or any similar or analogous legislation, whether under English law or otherwise), including without limitation administration, liquidation, administrative receivership, receivership, voluntary arrangement, or scheme of arrangement.
- 13 TRANSPARENCY**
- 13.1 In order to comply with the Government's policy on transparency in the areas of procurement and contracts the Contractor agrees that the Contract and the tender documents issued by the Authority which led to its creation will be published by the Authority on a designated web site.
- 13.2 The entire Contract and all the tender documents issued by the Authority will be published on the designated web site save where to do so would disclose information the disclosure of which would:
- a) contravene a binding confidentiality undertaking;
 - b) be contrary to regulation 43 of the Public Contracts Regulations 2006; or
 - c) in the reasonable opinion of the Authority be prevented by virtue of one or more of the exemptions in the Freedom of Information Act 2000 or one or more of the exceptions in the Environmental Information Regulations 2004.
- 13.3 If any of the situations in Condition 13(2) apply, the Contractor consents to the Contract or tender documents being redacted by the Authority to the extent necessary to remove or obscure the relevant material and being published on the designated website subject to those redactions.
- 13.4 In Condition 13(1) the expression "tender documents" means the advertisement issued by the Authority seeking expressions of interest, the pre qualification questionnaire and the invitation to tender and the contract includes the Contractor's proposal.
- 14 MONITORING AND MANAGEMENT INFORMATION**
- 14.1 Where requested by the Authority, the Contractor shall supply to the Authority and to the Office of Government Commerce (OGC) such information and

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- advice relating to the management of the Contract as the Authority or OGC may require.
- 14.2 The information and advice referred to in Condition 14(1) may include, but is not limited to, the following: Line Item Amount, Invoice Line Description, Invoice Line Number, Currency Code, Order Date, VAT Inclusion Flag, VAT Rate, List Price, Number of Items, Unit of Purchase Quantity, Price per Unit, Supplier Service Code, Service description and/or name, UNSPSC Code, Taxonomy Code and/or Name, Geographical, Project Code, Project description, Project Start Date, Project Delivery Date (Estimate and Actual), Total project cost and Project Stage.
- 14.3 The information referred to in Condition 14(1) shall be supplied in such form and within such timescales as the Authority or OGC may reasonably require.
- 14.4 The Contractor agrees that the Authority may provide OGC with information relating to the Services procured and any payments made under the Contract.
- 14.5 Upon receipt of the information supplied by the Contractor in response to a request under Condition 14(1) or receipt of information provided by the Authority to OGC under Condition 14(4) the Authority and the Contractor hereby consent to OGC:
- (a) storing and analysing the information and producing statistics; and
 - b) sharing the information or any statistics produced using the information, with any other Contracting Authority.
- 14.6 In the event that OGC shares the information provided under Condition 14(1) or 14(3) in accordance with Condition 14(5) b), any Contracting Authority (as defined in regulation 3 of the Public Contracts Regulations 2006) receiving the information shall be informed of the confidential nature of that information and shall be requested not to disclose it to any body which is not a Contracting Authority (unless required by law).
- 14.7 The Authority may make changes to the type of information which the Contractor is required to supply and shall give the Contractor at least one calendar month's written notice of any such changes.
- 15 BRIBERY ACT 2010**
- The Contractor shall and shall procure that persons associated with it or other persons who are performing services or providing goods in connection with this agreement shall:
- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption ("Relevant Requirements"), including but not limited to the Bribery Act 2010;
 - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 16 GENERAL**
- 16.1 The Supplier shall provide such information and permit such inspections and / or audits as NDA (or any of its customers or authorities to which it is accountable) may reasonably require from time to time in connection with any Order, Goods or Services.
- 16.2 The NDA shall inform the Supplier of all relevant policies and procedures in place from time to time. The Supplier shall observe all policies and procedures communicated to it under this condition.
- 16.3 The Supplier shall not be entitled to assign the Contract or any part of it without the written consent of NDA.
- 16.4 No waiver by NDA of any breach of the Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 16.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 16.6 The Supplier shall comply with all applicable law.
- 16.7 The Contract shall be construed in accordance with and governed by English law and subject to the exclusive jurisdiction of the English courts.