

GENERAL CONDITIONS OF CONTRACT (English Law version)

1. DEFINITIONS

In these Conditions:

"DCMS" means the Secretary of State for the Department for Digital, Culture, Media and Sport or their named representative.
"Conditions" means these conditions consisting of the clauses herein.
"Contract" means the contract between DCMS and the Supplier consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order.
"Supplier" means the person, company or organisation providing the Goods or Services pursuant to the Purchase Order.
"Data Protection Laws" means (i) the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time, (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable law about the processing of personal data and privacy.
"Goods" means the goods set out in the Purchase Order.
"Intellectual Property Rights" means, without limit to the following, copyrights, patents, trade marks, service marks, design rights, database rights, trade or business names or any similar rights (whether registrable or not) in any country including but not limited to England and Wales.
"Months" means calendar months.
"Named Representative" means the person named on the Purchase Order
"Parties" means the Supplier and DCMS.
"Premises" means the location where the Services are to be performed or where the Goods are to be delivered, as specified in the Purchase Order.
"Purchase Order" means the document setting out the Goods or Services to be provided by the Supplier to DCMS. "Services" means the services as specified in the Purchase Order and any materials, articles or goods necessary for the provision of those services.
"Subcontract" means any agreement or arrangement entered into by the Supplier pursuant to which a person other than the Supplier is to perform any of the obligations of the Supplier under this Contract.
"Sub-contractor" means any party (other than the Supplier) to a Subcontract.
"Variation Notice" means a written notice served by one Party on the other proposing any modification, alteration, omission or variation of the Contract.

The headings to Conditions shall not affect their interpretation.

2. OBLIGATIONS, PRICE AND PAYMENT

2.1 DCMS agrees to buy and the Supplier agrees to supply the Goods or carry out the Services as set out in the Purchase Order.
2.2 DCMS shall name a Named Representative on the Purchase Order who shall have the requisite power and authority to enter into this Contract.
2.3 The price of the Goods or the Services shall be as stated on the Purchase Order and no increase will be accepted by DCMS unless agreed in writing before the execution of the Contract.
2.4 Unless otherwise agreed in writing by DCMS, the Supplier shall render a separate invoice in respect of each consignment delivered under the Contract.
2.5 DCMS shall pay the Supplier and the Supplier shall pay any Sub-contractor 30 days after receipt of the Goods or the Services or the correct invoice, whichever is the later.
2.6 The Supplier shall ensure that clause 2.5 is included in any Contract between the Supplier and any Sub-contractor.

3. VARIATION

3.1 Neither Party shall make any alterations, additions, omissions or variations to the Contract unless a Variation Notice is served by one Party, and the variation is agreed in writing by the other Party.
3.2 The value of all alterations, additions and omissions or variations shall be based upon prices deduced from the prices for similar work insofar as such prices apply, or on the basis of such rates as shall be agreed upon between the Parties.

4. CONTRACTOR'S STATUS

Neither the Supplier nor their employees shall in any circumstances hold itself or themselves out as being the servant or agent of DCMS otherwise than in circumstances expressly permitted by this Contract or as may be agreed in writing.

5. THE GOODS

5.1 The Goods shall be to the reasonable satisfaction of DCMS and conform in all respects with any particulars specified in the Contract and any variations thereto.
5.2 The Goods shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws that may be in force.
5.3 The Goods shall be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by DCMS and DCMS relies on the skill and judgment of the Supplier in the supply of the Goods and the execution of the Contract.
5.4 The provisions contained in this clause 5 shall apply mutatis mutandi to the Services.

6. TIME OF PERFORMANCE

6.1 The Supplier shall comply with all time scales or deadlines as agreed between the Parties or set out in the Contract.
6.2 The time of delivery shall be of the essence and failure to deliver within the time promised or specified shall give DCMS the option to be released from any obligation to accept and pay for the Goods and/or to cancel all or part of the Contract, in either case without prejudice to the other rights and remedies of DCMS.

7. PROPERTY AND RISK

Property and risk in the Goods shall without prejudice to any of the rights or remedies of DCMS (including DCMS's rights and remedies under clause 8) pass to DCMS at the time of delivery.

8. INSPECTION, REJECTION AND GUARANTEE

8.1 The Supplier shall permit DCMS or its authorised representatives to make any inspections or tests of the Goods or Services that may reasonably be required and the Supplier shall afford all reasonable facilities and assistance free of charge at its premises during such inspections or tests. Failure by DCMS to make a complaint at the time of such inspections or tests or any approval that may be given during or after such inspections or tests shall not constitute a waiver by DCMS of any rights or remedies in respect of the Goods or Services.

8.2 DCMS may by written notice to the Supplier reject any of the Goods that fail to meet the requirements specified herein. Such notice shall be given within a reasonable time after delivery to DCMS of the Goods concerned. If DCMS shall reject any or all the Goods pursuant to this Condition DCMS shall be entitled (without prejudice to its other rights and remedies) either:

a) have the Goods as quickly as possible and in any event not later than 21 days either repaired by the Supplier or (as DCMS shall elect) replaced by the Supplier with Goods which comply in all respects with the requirements specified herein; or
b) obtain a full refund from the Supplier in respect of the Goods.

8.3 The guarantee period applicable to the Goods shall be 12 Months from putting into service or 18 Months from delivery whichever is the shorter (subject to any alternative guarantee arrangements agreed in writing between the Parties). If DCMS within such guarantee period or within 30 days thereafter gives notice in writing to the Supplier of any defect in any of the Goods that may have arisen during such guarantee period under proper and normal use the Supplier shall (without prejudice to any other rights and remedies of DCMS) as quickly as possible remedy such defects (whether by repair or replacement as DCMS shall elect) without cost to DCMS.

8.4 Any Goods rejected or returned by DCMS as described in clauses 8.1 and 8.2 shall be returned to the Supplier at the Supplier's risk and expense.

9. LABELLING AND PACKAGING

9.1 The Goods shall be packed and marked in a proper manner and in accordance with DCMS's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Purchase Order number, the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous goods (and all documents relating thereto) shall bear prominent and adequate warnings. The Supplier shall indemnify DCMS against all actions, suits, claims, demands, losses, charges, costs and expenses which DCMS may suffer or incur as a result of or in connection with any breach of this clause.

9.2 All packaging materials shall be non-returnable and shall be disposed of unless the Supplier's advice note or similar document states that such materials will be charged for unless returned. DCMS accepts no liability in respect of non-arrival at the Supplier's premises of empty packages returned by DCMS unless the Supplier (within ten days of receiving notice from DCMS that the packages have been dispatched) notifies DCMS in writing of such non-arrival.

9.3 The Supplier shall use their reasonable endeavors to ensure the packaging material is capable of recovery for reuse or recycling. The Supplier shall review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist.

10. CONTRACTOR'S PERSONNEL

10.1 The Supplier shall take all steps reasonably required by DCMS to prevent unauthorised persons being admitted to the Premises. If DCMS gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by DCMS shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.

10.2 If and when instructed by DCMS, the Supplier shall give to DCMS a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them, specifying the capacities in which they are so concerned and giving such other particulars and evidence of identity and other supporting evidence as DCMS may reasonably require.

10.3 The decision of DCMS as to whether the Supplier has fulfilled their obligations set out in clauses 10.1 and 10.2 above shall be final and conclusive.

10.4 The Supplier shall bear the cost of any notice, instruction or decision of DCMS under this clause 10.

11. MANNER OF CARRYING OUT THE SERVICES

11.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Premises without making prior arrangements with DCMS.

11.2 Where access to the Premises is necessary in connection with delivery or installation of the Goods or for the provision of the Services the Supplier and their Sub-contractors shall at all times comply with the reasonable requirements of DCMS's head of security.

11.3 It is the responsibility of the Supplier and their Sub-contractors to satisfy themselves that adequate access can be gained to the Premises to effect delivery or installation of the Goods or for the provision of the Services.

11.4 The Supplier shall have non-exclusive access to the Premises for the sole purpose of carrying out the Services or delivery of the Goods. The Supplier shall co-operate with such others who may be undertaking works at the Premises as DCMS may reasonably require.

11.5 DCMS may by written notice require the Supplier to execute the Services in such order or in such specified manner as DCMS may decide.

11.6 The Supplier shall submit detailed programmes of work and progress reports as DCMS may from time to time require.

b) enter into this or any other Contract with DCMS in connection with which commission has been paid by them or on their behalf, or with their knowledge, unless before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof have been disclosed in writing to DCMS.

14. HEALTH AND SAFETY

14.1 The Supplier shall promptly notify DCMS of any health and safety hazards that may arise in connection with the performance of the Services or delivery of the Goods.

14.2 Whilst on the Premises, the Supplier shall comply with any health and safety measures implemented by DCMS in respect of any persons working on those Premises.

14.3 The Supplier shall notify DCMS immediately in the event of any incident occurring in the performance of the Services or delivery of the Goods on the Premises where that incident causes any personal injury or any damage to property.

14.4 The Supplier shall take all measures necessary to comply with the requirements of the Health and Safety at Work Act 1994 and any other Acts, orders, regulations and Codes of Practice relating to health and safety, which may apply to staff in the performance of the Services or delivery of the Goods.

15. FREE ISSUE MATERIALS

Where DCMS issues materials free of charge to the Supplier such materials shall be and remain the property of DCMS. The Supplier shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Supplier shall notify DCMS of any surplus materials remaining after completion of the Contract and shall dispose of them as DCMS may direct. Waste of such materials arising from bad workmanship or negligence of the Supplier or any of their servants, agents or Sub-contractors shall be made good at the Supplier's expense. Without prejudice to any other of the rights of DCMS, the Supplier shall return any such materials to DCMS on demand.

16. INTELLECTUAL PROPERTY RIGHTS AND INFORMATION

16.1 The Supplier shall not infringe any Intellectual Property Rights of DCMS or Crown or any third party and the Supplier shall indemnify DCMS and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which DCMS or the Crown may suffer or incur as a result of or in connection with any breach of this clause 16.

16.2 All Intellectual Property Rights in any specifications, instructions, plans, drawings, patterns, models, reports, design or other materials:

a) made available to the Supplier by DCMS shall remain vested in the Crown absolutely;
b) prepared by or for the Supplier for use in relation to the performance of the Contract or generated pursuant to the Contract shall vest in the Crown absolutely.

16.3 The Supplier and their Sub-contractors shall not disclose any specifications, plans, instructions, drawings, patents, models or other similar information or intellectual property obtained pursuant to or by reason of the Contract, without the written permission of DCMS.

16.4 The Supplier and their Sub-contractors shall not refer to DCMS in any advertisement, promotional material or public notice of any kind without the prior written consent of DCMS.

16.5 The provisions of this clause 16 shall apply throughout the term of the Contract and after its expiry or termination.

17. INDEMNITY AND INSURANCE

17.1 Neither Party limits its liability for death or personal injury resulting from its own or its employees' or agents' or Sub-Contractors' negligence.

17.2 Subject to clause 17.1, the Supplier shall indemnify DCMS, the Crown, its servants and agents and keep it indemnified against all actions, claims, demands, costs and expenses incurred by or made against DCMS, the Crown, its servants and agents in respect of any loss or damage or personal injury (including death) which arises out of or in connection with the Contract irrespective of any negligence on the part of DCMS.

17.3 The Supplier shall have in force and shall require any Sub-contractor to have in force:

a) employer's liability insurance in accordance with any legal requirements for the time being in force, and
b) public liability insurance for such sum and range of cover as the Supplier deems to be appropriate but covering at least all matters which are subject of indemnities or compensation obligations under these Conditions in the sum of not less than one million pounds sterling (£1,000,000) for any one incident and unlimited in total, unless otherwise agreed by DCMS in writing.

17.4 The policy or policies of insurance referred to in paragraph 17.3 shall be shown to DCMS upon request, together with satisfactory evidence of payment of premiums.

18. DISCRIMINATION

18.1 The Supplier shall not unlawfully discriminate within the meaning of any law, enactment, order, regulation or other similar instrument relating to discrimination in employment (whether in relation to race, gender, religion, age or otherwise).

18.2 The Supplier shall take all reasonable steps to secure that all their servants, employees or agents and all sub-contractors employed in the performance of the Contract do not unlawfully discriminate as set out in Condition 18.1.

19. CONFIDENTIALITY

The Supplier shall at all times during the Contract and after its expiry or termination keep secret and not disclose and shall procure that its employees keep secret and do not disclose any information of a confidential nature obtained by reason of the Contract except information which is in the public domain otherwise than by reason of a breach of this provision or in accordance with the order of a court of competent jurisdiction or subject to any obligations under the Freedom of Information Act 2000 or any other public law obligations.

20. TERMINATION

20.1 DCMS shall be entitled to terminate the Contract by giving to the Supplier not less than 30 days notice to that effect.

20.2 If DCMS may terminate the Contract by written notice having immediate effect if:

a) subject to clause 20.4, the Supplier undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which in the reasonable opinion of DCMS impacts adversely and materially on the performance of the Contract; or

b) the Supplier being an individual or a firm, the Supplier or any partner in the firm becomes bankrupt or has a receiving order or administration order made against them; or makes any compromise or arrangement with or for the benefit of their creditors or shall make any conveyance or assignment for the benefit of their creditors, or shall purport to do so, or if in Scotland they shall become insolvent or notour bankrupt, or any application shall be made under any Bankruptcy Act for the time being in force for sequestration of their estate, or a trust deed shall be granted by them for behoof of their creditors; or

c) the Supplier being a company, goes into liquidation either compulsory or voluntary (save for the purpose of reconstruction or amalgamation) or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of its assets or if the Supplier makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things or any judgment is made against the Supplier or any similar occurrence under any jurisdiction affects such party, or

20.3 If the Supplier commits a material breach of the Contract and (if such breach is capable of remedy) failed to remedy such breach within seven days of being required by DCMS in writing to do so:
a) DCMS shall (without prejudice to any other of its rights) be entitled to terminate the Contract by notice to the Supplier with immediate effect, and

b) DCMS may itself complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance in payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to the Supplier, and

c) DCMS shall not be liable to make any further payment to the Supplier, and shall be entitled to deduct from any amount due to the Supplier the costs thereof incurred by DCMS (including DCMS's own cost). If the total cost to DCMS exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by DCMS from the Supplier.

20.4 DCMS may only exercise its right under clause 20.2(a) within 6 months after a change of control occurs and shall not be permitted to do so where it has agreed in advance to the particular change of control that occurs. The Supplier shall notify DCMS immediately when any change of control occurs.

20.5 Subject to any earlier termination under clauses 20.1, 20.2, or 20.3 above, the Contract shall expire upon completion of the Services or final payment for the Services or Goods or delivery of the Goods, whichever is the latter.

20.6 Termination of the Contract shall not affect any rights or remedies of DCMS that may have accrued up to the termination date or in respect of any obligation in the Contract expressly or impliedly having effect after expiry or termination of the Contract.

21. RECOVERY OF SUMS DUE

Whenever any sum of money is recoverable from or payable by the Supplier to DCMS, that sum may be deducted from any sum then due, or which at any later time may become due, to the Supplier under the Contract or under any other agreement or contract with DCMS.

22. ASSIGNMENT AND SUB-CONTRACTING

22.1 The Supplier shall not assign, novate or Sub-contract the Contract or any portion of the Contract or create a trust in favour of a third party for any benefit under this Contract without the prior written consent of DCMS.

22.2 Sub-contracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to the Supplier under the Contract.

23. NOTICES

23.1 Any notice required to be given under the Contract shall, except where otherwise specifically provided, be in writing and sent by one Party to the other at the address shown on the Purchase Order or other Contract document or as specified in a notice under clause 23.3.

23.2 Such notice may be sent by hand, post, or by facsimile transmission and shall be deemed effective if sent by post at the expiration of 2 working days after the same was posted or if by facsimile immediately after despatch.

23.3 Each Party shall notify the other of any changes of address or facsimile number within 48 hours of such change.

24. ALTERNATIVE DISPUTE RESOLUTION

24.1 Any unresolved dispute between the Parties arising out of this Contract shall be referred to a neutral adviser to be agreed between the Parties or if the Parties are unable to agree on the neutral adviser either Party may request the Centre for Dispute Resolution of Princes House, 95 Gresham Street, London ECRV 7NA to appoint a neutral adviser acceptable to both Parties.

24.2 The Parties shall, with the assistance of the neutral adviser appointed in accordance with clause 24.1 above, seek to resolve the Dispute by using an alternative dispute resolution procedure agreed between the Parties or, in default of such agreement, established by the neutral adviser.

25. RIGHTS OF THIRD PARTIES

25.1 A person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or Sub-contractor of either party) shall not have any right to enforce any term of the Contract which expressly or by implication confers a benefit on that person without prior agreement in writing of the Parties which must refer to this clause.

25.2 Without prejudice to the intention of the Parties to give no rights to any third party under the Contract, any term of the Contract can be varied and the Contract can be cancelled or terminated without the consent of any third party who might benefit from its terms or have enforceable rights under the Contract.

26. WAIVER

No failure or delay on the part of DCMS to exercise any right or remedy under this Agreement shall be construed or operate as a waiver of that right or remedy nor shall any single or partial exercise of any right or remedy.

27. FORCE MAJEURE

If any Party is prevented from or delayed in the performance of any of its obligations under this Contract by any event beyond the reasonable control of that Party, including, but not limited to, acts of God, civil commotion, war, fire, flood, industrial action or political interference, terrorism or the effects of terrorism or an epidemic then it shall notify the other Party in writing of the circumstances, and shall be excused from performing those obligations for so long as the event shall continue. If the event continues for longer

11.7 DCMS may serve written notice on the Supplier requiring them to:

- a) remove from the Premises any materials related to the Services which in the opinion of DCMS are either hazardous, noxious or not in accordance with the Contract, and/or
- b) use their reasonable endeavours to substitute proper and suitable materials for any improper or unsuitable materials.
- c) remove and re-execute any work which, in respect of material or workmanship, is not in the reasonable opinion of DCMS in accordance with the Contract notwithstanding any previous test or inspection made under clause 8 or interim payment made.

11.8 On completion of the Services the Supplier shall remove their plant, equipment and unused materials, shall clear away all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

12. AUDIT
The Supplier shall keep and maintain until three years after the Contract has been completed records to the satisfaction of DCMS of all expenditures which are reimbursable by DCMS and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by DCMS on a time charge basis. The Supplier shall afford DCMS or its representatives such access to those records as may be reasonably required by DCMS in connection with the Contract.

13. CORRUPT GIFTS OR PAYMENTS
The Supplier shall not:

- a) offer or give, or agree to give, to any employee or representative of DCMS any gift or consideration of any kind as an inducement or reward for doing, or refraining from doing or having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Contract with DCMS or for showing or refraining from showing favour or disfavour to any person in relation to this or any such Contract.

than 60 days, the Party not claiming relief under this clause shall be entitled to terminate the Contract by giving the other Party 30 days' written notice.

28. ENTIRE AGREEMENT
The Contract sets forth the entire agreement and understanding between the parties and supersedes all previous statements, documents and negotiations relating to the subject matter of the Contract provided that nothing in this clause purports to exclude any liability for any representation made fraudulently.

29. INVALIDITY AND SEVERABILITY
If any provision of this Agreement shall be held to be illegal, void, invalid or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

30. GOVERNING LAW
The Contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales, to which both Parties submit.

31. DATA PROTECTION LAW

31.1 The Parties agree that they shall comply with the requirements of the Data Protection Laws to the extent that they apply to the Contract.

31.2 Where one of the Parties is processing personal data pursuant to the Contract, details shall be provided in a separate schedule to include the subject matter, nature, scope and duration of the data processing. This shall also set out who is the Controller and who is the Processor for the purposes of the Data Protection Laws, and any resultant further obligations.