

## Department for Transport Purchase Order Terms and Conditions

### Conditions of Contract

*These conditions shall not apply where the supply of goods or services is subject to the terms of a framework contract or formal contract between the Contractor and the Department, or any other government department or agency.*

#### 1. Definitions - In these conditions:

- (i) "Contract" means the contract between the Department and Contractor comprising the Contractor's quotation or tender and the Department's acceptance thereof, including this Purchase Order, and any documents referred to therein.
- (ii) "Contractor" means the supplier of any Goods or Services under the Contract.
- (iii) "Data Loss Event" means any event that results, or may result, in unauthorised access to Personal Data held by the contractor under the contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data breach.
- (iv) "Data Protection legislation" means the UK GDPR as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable laws about the processing of personal data and privacy;
- (iv) the EU GDPR where applicable to the processing.
- (v) "Days" means calendar days save where the context otherwise requires.
- (vi) "Department" means the Secretary of State for Transport.
- (vii) "Good Industry Practice" means standards, practices, methods, and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector.
- (viii) "Goods" means anything supplied or to be supplied to the Department under the Contract.
- (ix) "ICT Environment" means the Department's system and the Contractor's system.
- (x) "Personal Data" means the meaning given to it in the Data Protection Legislation.
- (xi) "Removable Media" means all physical items and devices that can carry and transfer electronic information.
- (xii) "Services" means all the services that the Contractor is required to carry out under the Contract.

(xiii) "Working Day" means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

#### 2. Conditions for the supply of Goods - Contractor's duties

- (i) The Contractor shall supply the Goods specified in this Purchase Order. Goods may be returned at the Contractor's expense if they do not correspond with this Purchase Order.
- (ii) All Goods shall be delivered, carriage paid, at the place specified and only between 9.00 am and 4.00 pm Mondays to Fridays, unless otherwise agreed by the Department. An Advice Note must be sent by post and a Delivery Note must accompany the Goods.
- (iii) The cost of packaging will be deemed to be included in the cost of the Goods. If the Contractor requires packaging to be returned, it will be returned at the Contractor's expense.

#### 3. Conditions for the supply of Services - Contractor's duties

The Contractor shall properly perform the Services specified with the standard of skill, care and diligence which a competent and suitably qualified person performing such services could reasonably be expected to exercise and in accordance with all relevant statutory requirements and Good Industry Practice.

#### 4. Environmental Requirements

- (i) In performing the Contract, the Contractor shall comply with the Department's environmental policy, which is to conserve energy, water and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- (ii) The Contractor shall ensure that the Goods and their packaging are manufactured using biodegradable substances wherever they are available and appropriate. Where the Goods, their packaging or their manufacturing process include timber or timber products, the Contractor shall procure timber and wood-containing products from either sustainable and legal sources or Forest Law Enforcement, Governance and Trade (FLEGT) licensed or equivalent sources.
- (iii) The paper for all written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing 100% post-consumer waste and used on both sides where appropriate.
- (iv) All goods purchased by the Contractor on behalf of the Department (or which will become the property of the Department) must comply with the

relevant minimum environmental standards specified in the Government Buying Standards unless otherwise specified or agreed in writing.

Click on

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

### **5. Health, safety and security**

(i) The Contractor shall ensure that all of the Contractor's staff who have access to or are employed on the Department's premises comply with the Department's health, safety and security procedures and instructions and complete any additional security clearance procedures required by the Department when working at their premises.

(ii) The Contractor shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

### **6. Invoices and Payment**

The Contractor shall submit an invoice within 28 days of supplying the Goods or Services to the satisfaction of the Department. The invoice shall show the amount of VAT payable and bear this Purchase Order number. Non-compliant invoices will be returned to the Contractor. It is the Contractor's responsibility to submit a corrected invoice. Save where an invoice is disputed, the Department shall pay the Contractor within 30 days of receipt of an invoice. Invoices must be sent as a PDF by email to [ssa.invoice@sharingservicesarvato.co.uk](mailto:ssa.invoice@sharingservicesarvato.co.uk). If email is unavailable then invoices must be sent to: Shared Services Arvato, Accounts Payable, Sandringham Park, Swansea Vale, Swansea, SA7 0EA.

### **7. Anti-Bribery and Anti-Corruption**

The Contractor shall not receive or agree to receive from any person, or offer or agree to give to, or procure on behalf of any person in the employment of the Crown, any gift or consideration of any kind as an inducement or reward for doing or not doing anything, or for showing favour or disfavour to any person in connection with the Contract. The Contractor during the term of this Contract shall not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010.

### **8. Official Secrets Acts**

The Contractor shall take all reasonable steps to ensure that all persons employed by the Contractor or by any sub-contractor in connection with the Contract are aware of the Official Secrets Acts 1911 to 1989 and understand that these Acts apply to them during and after performance of any work under or in connection with the Contract.

### **9. Data Handling**

(i) Removeable media must only be used by exception in the delivery of this Contract. The Department must provide approval for the use of removeable media through the Information Assurance Teams.

(ii) All losses of data must be reported to the Department as soon as possible (within 72 hours of discovering the breach), subject to clause 11(vi) so that risk mitigation action can be taken. Any theft of Removable Media must be reported to the Police and a crime/incident number obtained.

### **10. Transparency and Disclosure of Information**

(i) The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA), the content of this Contract (including, but not limited to, any documents subsequently developed to monitor delivery and performance of the contract) is not Confidential Information.

(ii) The Department shall be responsible for determining, in accordance with its obligations under the FOIA, whether any of the content of the contract is exempt from disclosure. The Department may consult with the Contractor about information which may be exempt from disclosure but the Department shall have the final decision in its absolute discretion. The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

(iii) Notwithstanding any other term of this Contract, the Contractor hereby gives its consent for the Department to publish the Contract (and any documents subsequently produced by either party as part of management of the contract – including, but not limited to, performance against key performance indicators and plans to rectify the same etc.) in their entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.

(iv) The Contractor shall not disclose any information relating to the Contract or the Department's activities without the prior written consent of the Department, which shall not be unreasonably withheld. Such consent shall not be required where the information is already in the public domain, is in the possession of the Contractor without restriction as to its disclosure or is received from a third party who lawfully acquired it and is under no obligation restricting its disclosure.

### **11. Data Protection.**

(i) The Contractor is not required in the performance of this Contract to process Personal Data on behalf

of the Department (in the capacity as a Processor as defined in Data Protection Legislation).

(ii) Where the Department shares personal data with the Contractor (e.g. contact details of its employees), such data will be used by the Contractor for its own purposes, but only as necessary to support the performance of the Contract.

(iii) The parties agree to comply with all applicable requirements of Data Protection legislation in relation to their respective obligations as Controllers.

(iv) In relation any Personal Data that the Department shares with the Contractor, the Contractor shall:

- (a) Ensure that it has in place appropriate protective measures, as set out in Article 28(3) UK GDPR, to protect against a Data Loss Event.
- (b) Ensure that all personnel who have access to and/or process such Personal Data are obliged to keep it confidential and only process it in accordance with this Contract.
- (c) Not transfer such Personal Data outside of the UK unless in accordance with the safeguarding provisions as set out in Data Protection Legislation.
- (d) Securely delete such Personal Data once it is no longer required for the performance of the Contract or for any other legal obligation.
- (e) Notify the Department without undue delay upon becoming aware of any Data Loss Event involving such Personal Data.

## **12. Equality**

The Contractor shall not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment against a person on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, gender reassignment, marriage and civil partnerships, pregnancy and maternity, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

## **13. Sub-contracting and assignment**

The Contractor shall not sub-contract or transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior written consent of the Department. Where the Contractor enters into a contract with a supplier or sub-contractor for the purpose of performing the Contract or any part of it, he shall cause a term to be included in such contract which requires payment to be made by the Contractor to the supplier or sub-contractor within a

period not exceeding 30 Days from receipt of a valid invoice as defined by the contract requirements. The Department reserves the right to ask for information about payment performance and will provide a facility for sub-contractors to report poor performance to the Cabinet Office.

## **14. Intellectual Property Rights**

Subject to any prior rights of the Department or Crown, and to the rights of third parties arising otherwise than under the Contract, such intellectual property rights as are derived from or arise as a result of the performance of the Contract by the Contractor shall vest in the Contractor. The Department and Crown shall be entitled to use, supply, reproduce, publish, modify, adapt, enhance or otherwise deal with any materials in which such intellectual property rights exist with the Contractor's prior written approval but the Contractor shall not demand payment for any such uses.

## **15. Termination**

If the Contractor fails to fulfil their obligations under the Contract, the Department may terminate the Contract forthwith by written notice and may recover from the Contractor any reasonable costs necessarily and properly incurred by the Department as a consequence of termination.

## **16. Break**

(i) Without prejudice to clause 15, the Department shall at any time have the right to terminate the Contract or reduce the quantity of Goods or Services to be provided by the Contractor in each case by giving to the Contractor one month's written notice. During the period of notice the Department may direct the Contractor to perform all or any of the work under the Contract. Where the Department has invoked either of these rights, the Contractor may claim reasonable costs necessarily and properly incurred as a result of the termination or reduction, excluding loss of profit and consequential losses, provided that the claim shall not exceed the total cost of the Contract.

(ii) Termination or reduction under this provision shall not affect the rights of the parties to the Contract that may have accrued up to the date of termination.

## **17. Loss or Damage**

The Contractor shall, without delay and at the Contractor's own expense, reinstate, replace or make good to the satisfaction of the Department, or if the Department agrees, compensate the Department, for any loss or damage connected with the performance of the Contract, except to the extent that such loss or damage is caused by the neglect or default of the Department. "Loss or damage" includes but is not limited to: loss or damage to property; personal

injury, sickness or death; and loss of profits or loss of use suffered as a result of any loss or damage.

#### **18. Recovery of Sums from Contractor**

Whenever under the Contract any sum or sums of money shall be recoverable from or payable by the Contractor to the Department, that amount may be deducted from any sum then due, or which at any later time may become due, to the Contractor under the Contract or under any other contract with the Department or with any Department, Agency or office of His Majesty's Government.

#### **19. Modern Slavery**

The Contractor in performing its obligations under the Contract shall not engage in any activity, practice, or conduct that would constitute an offence under the Modern Slavery Act 2015.

#### **20. Insurance**

The Contractor shall effect and maintain an adequate level of insurance cover in respect of all risks that may be incurred by the Contractor in the performance of this Contract.

#### **21. Notices**

All notices must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise, the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

#### **22. Governing Law and Jurisdiction**

The Contract shall be governed by and interpreted in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales to which both parties irrevocably submit.

#### **23. Variations to the Contract**

The Contract may only be varied in writing and formally agreed by both parties.