



UK Export
Finance

Purchase Order Terms and Conditions

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Version 1.0

- ❖ **These terms and conditions shall NOT apply where the supply of Goods and/or or Services is subject to the terms of a framework agreement, or call-off contract or a formal contract between the Supplier and the Authority, or any other government department or agency.**

1. INTERPRETATION

- 1.1 **“Agreement”** means the arrangement between the Authority and the Supplier, comprising the Purchase Order, the Statement of Requirements, Supplier’s quotation or proposal and the Authority’s acceptance thereof and these terms and conditions.
- 1.2 **“Authority”** means the Secretary of State acting through the Export Credits Guarantee Department operating as UK Export Finance (“UKEF”). **“Buyer”** and **“Customer”** shall be construed accordingly.
- 1.3 **“Data Protection Legislation”** means (i) the UK GDPR (UK General Data Protection Regulations), the LED (Law Enforcement Directive) 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 the processing of personal data and privacy; (iii) the Data Use and Access Act; (iv) all applicable Law about the processing of personal data and privacy; and guidance issued by the Information Commissioner and other regulatory authority.
- 1.4 **“Goods”** the goods (or any part of them) to be provided by the Supplier under this Agreement as set out in the Statement of Requirements and the Purchase Order.
- 1.5 **“Law”** means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply.
- 1.6 **“Party”** (and **“Parties”**) means a party to (and both parties to) this Agreement.
- 1.7 **“Purchase Order”** means the Authority’s order for Services which has a unique number, and details the Services to be supplied by the Supplier in accordance with the terms of this Agreement.
- 1.8 **“Services”** means the services to be provided by the Supplier to the Authority under this Agreement as specified in the Statement of Requirements and the Purchase Order.
- 1.9 **“Staff”** means all persons employed by the Supplier to perform its obligations

under this Agreement together with the Supplier’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Agreement.

- 1.10 **“Supplier”** means the person, firm, partnership or company named as Supplier or Provider in the Purchase Order and with whom the Authority enters into this Agreement with. **“Contractor”** and **“Provider”** shall be construed accordingly.
- 1.11 **“Statement of Requirements”** means any specification for the Goods and/or Services to be supplied by the Supplier and agreed with the Authority; or supplied to the Supplier by the Authority including any specification contained in the Purchase Order and any documents referred to therein which set out the quantity, description, quality and price of the Goods and/or Services. **“Statement of Works”** and **“Specification”** shall be construed accordingly.

2 BASIS OF THE AGREEMENT

- 2.1 The Purchase Order constitutes an offer by the Authority to purchase Goods and/or Services from the Supplier in accordance with this Agreement.
- 2.2 This Agreement will be deemed to be accepted on the earlier of: (a) receipt by the Authority of the Supplier’s notification of acceptance in writing or (b) any act by the Supplier consistent with fulfilling the Purchase Order.

3 SUPPLIER OBLIGATIONS

- 3.1 The Supplier shall co-operate with the Authority in all matters relating to the supply of the Goods and/or Services and comply with the Authority’s instructions. The Supplier shall promptly and efficiently provide the Goods and/or Services in accordance with:
- 3.1.1 this Agreement;
 - 3.1.2 the skill and care which would reasonably be expected from a person engaged in a similar type of work to providing the Goods or Services; and
 - 3.1.3 all applicable Laws (including health, safety and welfare at work legislation, the Equality Act 2010 and the Human Rights Act 1998).
- 3.2 In carrying out this Agreement, the Supplier shall comply with all relevant provisions of the Data Protection Legislation and the Authority’s security policies and shall be liable for, and indemnify the Authority against any expense, liability, loss, claim or

proceedings arising as a result of or in connection with any breach by the Supplier, its sub-contractors, sub-processors staff, or agents of its obligations under this clause.

- 3.3 When handling Authority data, the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Authority as notified to the Supplier from time to time.
- 3.4 The Supplier shall duly observe all its obligations under the Data Protection Legislation and shall provide all necessary assistance and cooperation as reasonably requested by the Authority to comply with its obligations under Data Protection Legislation which arise in connection with this Agreement.
- 3.5 The Parties acknowledge and agree that in connection with this Agreement, neither Party will act as a Processor of the other (Processor having the meaning given to it in the UK GDPR). The Authority's will process personal data in accordance with [UKEF Privacy Notice - GOV.UK](#). In the event that there is any change which requires either Party to act as a Processor, the Parties agree, at their own cost, to enter into the Authority's standard data protection or data sharing agreement (as amended or replaced from time to time).
- 3.6 The Supplier shall keep and maintain until 8 years after the expiry of this Agreement, or as long a period as may be agreed between the Parties, full and accurate records of this Agreement including the Goods and/or Services supplied under it and all payments made by the Authority. The Supplier shall on request afford the Authority or the Authority's representatives such access to those records as may be reasonably requested by the Authority in connection with this Agreement.

4 PAYMENT

- 4.1 The Authority shall pay the Supplier the amount stated on the Purchase Order, which shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods and/or Services.
- 4.2 In respect of the Goods, the Supplier shall invoice the Authority after delivery as specified in this Agreement. In respect of Services, the Supplier shall invoice the Authority on completion of the Services as specified in this Agreement. Each invoice shall include such supporting information required by the Authority to verify the accuracy of the invoice, including the relevant Purchase Order Number and a

breakdown of the Goods or Services (or both) supplied in the invoice period.

- 4.3 The Authority shall pay the Supplier the invoiced amount no later than 30 days from receipt of a valid and undisputed invoice/s provided that the Supplier has provided full and proper delivery of the Goods and/or Services, supported by full and accurate information and documentation to the satisfaction of the Authority.

5 SUPPLY AND DELIVERY OF GOODS AND SERVICES

- 5.1 The Supplier shall ensure that the Goods shall:
 - (a) correspond with their description in the Purchase Order and any other specification for the Goods agreed with the Authority; and
 - (b) be delivered on the date specified and to the location agreed with the Authority's representative.
- 5.2 The Supplier shall meet any performance dates for the Services specified in the Purchase Order or notified to the Supplier by the Authority.
- 5.3 The Supplier shall ensure that the Services conform with all descriptions and specifications of the Services as agreed with the Authority and provide all equipment, tools and vehicles and such other items as are required to provide the Services.
- 5.4 The Supplier shall satisfy itself that its Staff are suitable to provide the Goods and/or Services. The Supplier shall use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier can fulfil its obligations under this Agreement.

6 ASSIGNMENT AND SUB-CONTRACTING

- 6.1 The Supplier shall not without the prior written consent of the Authority assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of this Agreement of any part thereof. The Authority may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those

acts and omissions were its own.

- 6.2 The Authority may assign, novate, or otherwise dispose of its rights and obligations under this Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under this Agreement.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 All intellectual property rights in any materials (i) provided by the Authority to the Supplier for the purposes of this Agreement will remain the property of the Authority; and (ii) prepared by or for the Supplier solely for delivery of the Services under this Agreement, will vest in the Authority. If, and to the extent, that such materials do not vest automatically in the Authority, the Supplier hereby assigns (with full title guarantee and free from all third party rights) all intellectual property rights in such materials to the Authority.
- 7.2 The Supplier hereby grants to the Authority a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any intellectual property rights that the Supplier owns, or has developed, prior to the commencement date of this Agreement and which is embedded into the deliverable, which the Authority reasonably requires in order to exercise its rights and take the benefit of this Agreement including the Services provided.
- 7.3 The Supplier will indemnify, and keep indemnified, the Authority in full against all cost, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Authority as a result of or in connection with any claim made against the Authority for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier, its employees, agents or subcontractors.

8 STATUS OF SUPPLIER

The Supplier agrees that nothing in this Agreement shall create a contract of employment, relationship of agency, partnership or joint venture between the Parties.

9 REPUTATION AND PUBLIC SERVICE CONSIDERATIONS

In providing the Goods and/or Services, the Supplier shall have regard to the standing and reputation of the Authority and shall not do (by act or omission) anything that may bring the standing or reputation of the Authority into disrepute, attract adverse publicity to the Authority or harm public confidence in the Authority.

10 REPRESENTATION AND WARRANTIES

- 10.1 The Supplier warrants and represents to the Authority that:
- 10.1.1 the Goods or any goods supplied by the Supplier pursuant to the delivery of the Services shall be of satisfactory quality, fit for their purpose and free from defects in design, material and workmanship;
- 10.1.2 the Supplier has full capacity and authority and all necessary licences, permits and consents to enter into and to perform this Agreement, and that this Agreement is executed by a duly authorised representative of the Supplier;
- 10.1.3 the provision of the Goods and/or Services and the Authority's use thereof, shall not infringe any third party intellectual property rights;
- 10.1.4 the Supplier will make all reasonable endeavours to ensure that any representations made to the Authority are true and accurate; and
- 10.1.5 there are no contractual obligations, claims, litigation, or proceedings against the Supplier which could materially affect its ability to perform its obligations under this Agreement.

11 INDEMNITY AND LIABILITY

- 11.1 The aggregate liability of the Supplier in respect of all defaults, claims or loss, whether arising from breach of this Agreement, the supply or failure to supply the Goods and/or Services, tort or otherwise shall in no event exceed 125% of the sum paid or payable to the Supplier. Nothing in this Agreement shall be construed to limit or exclude the Supplier's liability under the indemnity or right to recovery in clauses 3.2 (data protection), 7.3 (Intellectual Property Rights) and 13.2 (Fraud).

11.2 Neither Party will have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party (those circumstances excluding any industrial action occurring within the Supplier's organisation).

12 AUTHORITY REMEDIES

If the Supplier fails to comply with its obligations under this Agreement, the Authority shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate this Agreement with immediate effect by giving written notice to the Supplier; and
- (b) to recover from the Supplier any costs incurred by the Authority in obtaining substitute Goods and/or Services from a third party.

13 FRAUD

13.1 The Supplier shall safeguard the Authority's funding of the Services or purchase of the Goods against fraud and notify the Authority immediately if it suspects that any serious irregularity or fraud has occurred or is occurring.

13.2 If the Supplier or its Staff commits fraud in relation to this Agreement, the Authority may terminate this Agreement immediately and recover from the Supplier any loss suffered by the Authority resulting from the termination.

14 PREVENTION OF BRIBERY AND CORRUPTION

The Supplier must comply with the Bribery Act 2010. If the Supplier or its Staff engages in conduct prohibited under this clause, the Authority may terminate this Agreement and recover from the Supplier any loss suffered by the Authority resulting from the termination.

15 CONFIDENTIALITY

15.1 (Subject to clause 16), each Party will keep confidential and not disclose, and will procure that their employees and the employees of any sub-contractor keep confidential and do not disclose, any information of a confidential nature obtained by them (concerning the other Party) by reason of this Agreement except information which:

- (a) is in the public domain otherwise than by reason of a breach of this provision;
- (b) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (c) was in a Party's possession without restriction as to its disclosure prior to receiving such information from the other Party;
- (d) is required to be disclosed by law (including under the FOIA and Environmental Information Regulations), or for the purposes of audit or regulatory requirements;
- (e) is necessary for a Party to disclose for the purposes of the performing its obligations under this Agreement (but only to the extent it is necessary to do so);
- (f) the other Party has given its specific express prior written consent can be disclosed;
- (g) in the case of the Authority, disclosed to any other government department provided that such government department will comply with confidentiality provisions in respect of such disclosed information which are no less onerous than this clause.

15.2 The provisions of this clause will apply during the continuance of this Agreement and after its expiry or termination howsoever arising.

16 FREEDOM OF INFORMATION

16.1 The Supplier acknowledges that the Authority is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) and shall:

- provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and the EIR;
- transfer to the Authority all requests for information relating to this Agreement that it receives as soon as practicable and in any event within 2 working days of receipt;
- provide the Authority with a copy of all information belonging to the Authority requested in the request for information which is in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such information; and
- not respond directly to a request for information in relation to this Agreement.

16.2 The Supplier acknowledges that the

Authority may be required under the FOIA and the EIR to disclose information concerning the Supplier or the Goods and/or Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances, the Authority shall, in accordance with any relevant guidance issued under the FOIA and/or EIR, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

- 16.3 Notwithstanding any other provision in this Agreement, the Authority shall be responsible for determining in its absolute discretion whether any information relating to the Supplier or the Goods and/or Services is exempt from disclosure in accordance with the FOIA and/or the EIR.

17 TERM

This Agreement shall take effect on the date specified on the Purchase Order and shall expire when the Supplier has supplied the Goods and/or Services to the Authority's satisfaction and the Authority has paid all sums due to the Supplier unless otherwise agreed in writing by the Parties.

18 TERMINATION

- 18.1 Where the Supplier supplies the Goods and/or Services over a period of more than one month, the Authority may terminate the Contract without cause by giving the Supplier 1 month written notice, or if less than one month, at least ten working days' notice.
- 18.2 The Party affected by force majeure circumstances in clause 11.2 will promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than six months, either Party may terminate this Agreement by written notice to the other Party.
- 18.3 Upon termination or expiry of this Agreement, the Supplier shall give all reasonable assistance to the Authority and any incoming supplier of the Goods and/or Services; and return all requested documents, information and data to the Authority as soon as reasonably practicable.
- 18.4 Termination or expiry of this Agreement shall be without prejudice to the rights of either Party accrued prior to termination

or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3, 5, 7, 9, 11, 12, 13, 14, 15, 16, 18, and clause 20.

19 VARIATION

The Authority has the right to vary or replace this Agreement from time to time when there is change in legislation or policy. Any other variation will not be valid except in writing signed by a duly authorised representative of both the Parties.

20 DISPUTE RESOLUTION

The Parties shall attempt in good faith to negotiate a settlement to any dispute arising out of or in connection with this Agreement. Such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

21 NOTICES

Any notice to be given under this Agreement shall be in writing and may be served by personal delivery, first class mail or recorded delivery or, e-mail to the address of the relevant Party notified under this Agreement.

Notices sent as above will be deemed effectively given on the day when in ordinary course of the means of transmission, it would first be received by the addressee in normal business hours.

22 LAW AND JURISDICTION

The validity, construction and performance of this Agreement, and all contractual and non-contractual matters arising out of it, will be governed by English law and will be subject to the exclusive jurisdiction of the English courts to which the Parties submit.