

Standard Conditions of Contract

1. Interpretation

1.1 In these Conditions unless the context otherwise requires:

- 'Conditions' means the terms and conditions of purchase set out in this document
- 'Confidential Information' means all information disclosed by either Party to the other in any form or manner, provided that each such item of information would appear to a reasonable person to be confidential or is specifically stated by the disclosing party to be confidential
- 'Contract' means the Official Order, any tender documentation, these Conditions and any Special Conditions of Contract attached to or mentioned in the Official Order
- 'Goods' means any goods, articles, materials or things which are the subject of the Contract
- 'Goods/Services' means the Goods and or Services which are the subject of the Contract, as the context requires
- 'NPS' means NPS Property Consultants Limited and any of its subsidiary companies within the meaning of the Companies Act 2006
- 'NPS Representative' means an employee or agent of NPS whose name has been notified to the Supplier to represent the interests of NPS for the purposes of the Contract
- 'Official Order' means NPS' purchase order form (or, as the case may be, the order confirmation), submitted for and on behalf of the NPS Representative
- 'Parties' means NPS and the Supplier
- 'Price' has the meaning given at Clause 6
- 'Services' means any services or work which are the subject of the Contract
- 'Special Conditions' mean the special terms and conditions of purchase attached to or mentioned in the Official Order
- 'Supplier' means the person firm or company to whom the Official Order is addressed.

1.2 The headings in this Contract are included for convenience only and will not affect the construction or interpretation of this Contract.

1.3 Where any Special Conditions are inconsistent with these Conditions the Special Conditions will have precedence.

1.4 A reference to a particular law is a reference to it as it is in force for the time being taking into account any amendments, extension, application or re-enactment and including any subordinate legislation for the time being in force made under it.

2. The contract

2.1 The Supplier agrees to supply the Goods/Services specified in the Contract at the time or times and in the quantities and manner specified in the Contract.

2.2 NPS agrees to pay the Price for the Goods/Services in the manner and time set out in the Contract.

- 2.3 The terms of the Contract are the only terms and conditions upon which NPS is prepared to deal with the Supplier and they shall govern the supply of the Goods/Services to the exclusion of all other terms and conditions.
- 2.4 The Official Order shall be deemed to be an offer by NPS to buy the Goods/Services subject to these Conditions which shall be accepted by the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Official Order (in whole or in part).
- 2.5 No terms and conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement, acceptance, specification, delivery note, invoice or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

3. Delivery / Completion

- 3.1 The Goods will be properly packed, secured and sent at the Supplier's expense and will be delivered in good condition at the time or times and the place or places set out in the Contract.
- 3.2 The Services will be supplied and completed in accordance with the requirements and time-scales set out in the Contract.

4. Late delivery

- 4.1 If the Supplier is unable to deliver the Goods or supply the Services (or any part of them) when required by the Contract (or where no time is specified, within a reasonable time), the Supplier will immediately inform the NPS Representative. The NPS Representative may (but shall not be obliged to) agree to extend the agreed time for delivery or supply.
- 4.2 If the Goods are not delivered or the Services are not supplied (or any part of them) by the time or times set out in the Contract or the time agreed by the NPS Representative following notification under Clause 4.1 above then NPS may cancel the Contract immediately by giving the Supplier notice in writing. NPS may have the Goods/Services supplied by a reasonable alternative supplier. The Supplier will be liable for any loss, damage or expense incurred by NPS (whether direct or indirect) as a result of any failure to deliver or supply in accordance with the Contract. This Clause will not affect any other rights that NPS may have under this Contract or otherwise.

5. Compliance

- 5.1 The Goods/Services will:
 - (a) comply in all respects with the Contract;
 - (b) be of the best available design, of the best quality, material and workmanship and fit for the purpose or purposes made known to the Supplier expressly or by implication and in this respect NPS relies on the skill and judgement of the Supplier;

- (c) comply with any legislation and any standard required by any applicable European and British standards specification or code of practice current at the date of the Contract.
- 5.2 The Supplier warrants that the Services will be performed by appropriately qualified, experienced and trained personnel with due care and diligence and to such a high standard of quality as it is reasonable for NPS to expect in all the circumstances.
- 5.3 The Supplier will comply with all reasonable instructions and directions issued by the NPS Representative from time to time.
- 5.4 In performing its obligations under the Contract, the Supplier shall comply with:-
 - (a) all applicable laws, statutes and regulations from time to time in force including, but not limited to, the Data Protection Act 1998, the Bribery Act 2010, the Equality Act 2010 and the Modern Slavery Act 2015;
 - (b) the NPS Sustainable Procurement Policy;
 - (c) the NPS Supplier Code of Conduct;
 - (d) other relevant policies as may be published from time to time on the corporate website and e-tendering portal.
- 5.5 The Supplier shall notify NPS as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract.
- 5.6 NPS reserves the right to conduct visits and audits of the Supplier's supply chain on reasonable notice.
- 6. Price**
- 6.1 The Price of the Goods/Services supplied under the Contract will be the price stated in the Contract. No variation in the Price nor extra charges will be accepted by NPS.
- 7. Method of ordering and payment for goods/services**
- 7.1 NPS will not be liable to pay for Goods/Services unless requisitioned by an Official Order.
- 7.2 NPS will pay any invoice issued under Clause 8 within 30 days of receipt of the invoice or 30 days from delivery of the Goods or completion of the supply of the Services whichever is later.
- 7.3 Subject to Clause 16, NPS will make payment direct to the Supplier or an assignee but not to any agent of the Supplier, nor to a sub-contractor.
- 8. Invoices**
- 8.1 The Supplier will invoice NPS as follows:
 - (a) **Goods**
The Supplier will send with the Goods an invoice or delivery note quoting the relevant Official Order number and setting out particulars of the Goods delivered. NPS will not accept Goods unless they are accompanied by such a prominently displayed invoice or delivery note.

(b) **Services**

The Supplier will send an invoice once the Services have been supplied in accordance with the Contract. The invoice will quote the Official Order number and set out details of the Services supplied.

8.2 NPS will not be obliged to make payment unless an invoice in the form set out in Clause 8.1 above is received.

9. Ownership and risk

9.1 Ownership of Goods/Services will pass to NPS when they have been delivered or supplied in accordance with the Contract and the Supplier will bear all the risks of loss or damage to the Goods/Services until they have been so delivered and will insure accordingly.

10. Royalties and patent rights

10.1 The Supplier will pay all royalties on patented articles, all Value Added Tax, import duty and other taxes.

10.2 All payments and royalties payable in one sum or by instalments or otherwise are deemed to have been included by the Supplier in the prices named in his/her tender or quotation, and will be paid by him/her to those to whom they may be due or payable.

10.3 The Supplier warrants that neither the Goods/Services nor use of them will infringe any patent registered design trademark or copyright or other protected right and will fully and promptly indemnify and keep indemnified NPS against any action, claim or demand costs or expenses arising from or incurred by reason of any infringement or alleged infringement of any such right.

10.4 In the event of any claim being made or action brought against NPS in respect of any of the matters set out at 10.1, 10.2 or 10.3, NPS agrees to notify the Supplier immediately and the Supplier will, at his/her sole expense, conduct all negotiations for the settlement of the same, or any litigation that may arise therefrom.

11. Use of information

11.1 Each Party will keep the other's Confidential Information confidential unless:

(a) the Confidential Information was already lawfully known, or became lawfully known to that Party independently;

(b) the Confidential Information is in, or comes into, the public domain other than due to wrongful use or disclosure by NPS or Supplier;

(c) disclosure or use of the Confidential Information is necessary to carry out the Contract;

(d) disclosure is required by law including but not limited to under the Freedom of Information Act 2000 ("the FOIA") or disclosure is permitted by the Human Rights Act 1998.

- 11.2 The Supplier will note and facilitate NPS' compliance with the FOIA or any statutory modification or re-enactment or any related guidelines or codes of practice.
- 11.3 In the event that NPS is required to provide information to a person as a result of a request made to it under the FOIA, NPS will adhere to the requirements of the FOIA in disclosing information relating to the Contract and the Supplier.
- 11.4 The Supplier will assist NPS at no additional charge in meeting any requests for information in relation to the Contract which are made to NPS in connection with the FOIA or the Data Protection Act 1998. NPS may, from time to time, serve on the Supplier an information notice requiring the Supplier within such time and in such form as specified in the information notice, to supply to NPS such information as NPS may reasonably require relating to such requests for information. The Supplier agrees to comply with any such notice.
- 11.5 Any drawings, specifications, diagrams, computer programmes, tools, materials or any other equipment or information acquired from NPS will only be used for the purpose for which they are supplied and will not be divulged, copied or transmitted to third parties without the prior written consent of the NPS Representative. Such items remain the property of NPS and will be returned in good condition (fair wear and tear excepted) on completion of the Contract.

12. Ownership of results

- 12.1 If the Contract involves design and/or development work and/or results in the creation and/or maintenance of a database:
 - (a) All rights in the results of work arising out of or deriving from the Contract, including inventions, designs, databases, copyright and knowledge will be the property of NPS and NPS will have the sole right to determine whether any letters patent, registered design, trademark or other protection will be sought.
 - (b) The Supplier will promptly inform NPS of all such results and will if requested and at NPS' expense do all acts and things necessary to enable NPS to obtain letters patent, registered designs and other protection for such results in all territories and to assign the same to NPS.
 - (c) The Supplier will ensure that all technical information (including computer programs and programming information) arising out of or deriving from the Contract which is Confidential Information is held in strict confidence except for any such information which becomes public knowledge other than by breach of this Contract or which is disclosed in accordance with Conditions 11.1 (a) to (d).

13. Rejection and replacement

- 13.1 If in the opinion of the NPS Representative, the Goods delivered or Services supplied are not in accordance with the Contract or are in any way faulty or sub-standard then NPS will be entitled to reject the Goods/Services. NPS will give the Supplier a reasonable opportunity to replace the Goods/Services with Goods/Services which do comply with the Contract and if Contract compliant Goods/Services are not supplied in that time, NPS will be entitled to cancel the Contract (by giving notice in writing) and buy the nearest equivalent Goods/Services elsewhere. This right of rejection and cancellation does not affect any other rights that NPS may have under the Contract or general law.

13.2 Should any faults develop within a period of twelve months from the date of delivery of Goods or completion of supply of Services which are in the opinion of the NPS Representative directly attributable to inferior workmanship or faulty materials or the failure to exercise reasonable skill and care, the Supplier will at his/her own expense be required to make good or replace immediately the defective parts or work to the satisfaction of the NPS Representative.

14. Removal of rejected goods

14.1 Any Goods which are rejected under Condition 13 will be removed by and at the expense of the Supplier immediately after receipt of notice of such rejection and if not removed within ten working days after despatch of such notice the NPS Representative may cause the Goods to be removed, sold, or otherwise disposed of and charge the Supplier with all expenses incurred in such removal, sale or disposal and NPS will not be liable for any damage or loss thereby sustained by the Supplier and such expenses will be recoverable by NPS from the Supplier.

15. Indemnity and insurance

15.1 The Supplier undertakes to fully and promptly indemnify and keep indemnified NPS from and against any and all actions, costs (including professional costs), claims, demands, liabilities, losses and expenses (whether direct or indirect, present or future, actual or contingent) incurred by, awarded against or arising against NPS in connection with any of the following:

- (a) any failure of the Goods/Services to comply with the Conditions and any Special Conditions set out in the Contract;
- (b) any actual or alleged non-compliance of the Goods/Services with any law, regulation, code of practice or regulatory requirement (whether of the United Kingdom or elsewhere) which is applicable to the Goods/Services;
- (c) any personal injury to or death of any person or any damage to any property (other than as a result of any default or neglect of NPS or of any person for whom it is responsible) which arises out of the negligent or imperfect or improper performance of the Contract by the Supplier or his/her workmen, servants or agents, or any actual or alleged defect in the Goods/Services supplied;
- (d) any claim against NPS by any third party as a result of any breach by the Supplier of the Contract or any obligations implied on the Supplier's part by the Sales of Goods Act 1979, the Supply of Goods and Services Act 1982 or any other statute or statutory provision relevant to the Contract or the Goods/Services supplied under it.

15.2 Before entering into the Contract, the Supplier will take out insurance (with a reputable insurer) and during the continuance of the Contract and for twelve months after it will maintain such insurance against all the liabilities, payments, proceedings, costs, charges, damages, expenses, claims, and demands referred to in the Contract (including public liability insurance of at least £5 million (five million pounds sterling) per claim in relation to Services involving works and £2 million (two million pounds sterling) per claim for other Contracts) and will when required produce to the NPS Representative the policy, or policies of such insurance together with the receipt for the payment of the last premium in respect thereof.

16. Assignment and sub-contracting

16.1 The Supplier will not transfer or create any interest under a trust or assign directly or indirectly to any person or persons whatever, the whole or any portion of the Contract without the written permission of NPS.

16.2 Sub-contracting is also prohibited unless the written consent of NPS is first obtained. Where such consent has been granted, the Supplier will be and remain responsible for the observance of all the provisions of the Contract by all sub-contractors and by manufacturers and suppliers of Goods used in the execution of the Contract.

17. Improper inducement or reward

17.1 The Supplier or any person employed by the Supplier or acting on the Supplier's behalf whether or not to the Supplier's knowledge, must not, in connection with this Contract, give, provide or offer to NPS' staff or agents or any other person any loan, fee, reward, gift or any emolument or advantage whatsoever as an inducement or reward for taking or not taking any action in relation to the Contract or any other contract with NPS.

18. Termination of the contract

18.1 NPS may (without prejudice to any other rights or remedies under the Contract including other rights to terminate the Contract) terminate the Contract immediately (by giving written notice) if the Supplier:

(a) breaches or fails to observe any provision of the Contract, where NPS has given written notice of the breach or non-observance to the Supplier allowing 14 days from receipt of the notice to rectify the breach or non-observance and the breach or non-observance is not rectified (either fully or at all) in that time;

(b) becomes insolvent or bankrupt or if an order is made or a resolution is passed for its winding up or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Supplier's assets or business or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt;

(c) causes or commits a breach of Clause 17 above or commits an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972 or the Bribery Act 2010 in relation to any contract with NPS;

(d) the Supplier has committed a fundamental breach of the Contract which in NPS' reasonable opinion justifies immediate termination of the Contract.

18.2 Any termination under either Clause 18.1 or any other Clause of these Conditions, will be without prejudice to the rights of NPS in respect of any prior breach by the Supplier of the Contract.

19. Matters beyond a party's control

19.1 If either Party is prevented from fulfilling its obligations under the Contract by reason of any supervening event beyond its reasonable control including (but not limited to) war, national emergency, flood, earthquake, strike or lockout (other than a strike or lockout induced by the Party so affected) the Party unable to fulfil its obligations will

immediately give notice of this to the Other Party and will do everything in its power to resume performance.

19.2 Neither Party will be deemed to be in breach of its obligations under the Contract in the circumstances set out in Clause 19.1, subject to the terms set out in that Clause.

19.3 If and when the event in question exceeds a period of two weeks, then the Contract will automatically terminate unless the Parties first agree otherwise in writing.

20. Service of notices

20.1 Any notice to the Supplier will be deemed to be sufficiently served if given or left in writing at his/her usual or last place of abode or business and proof of postage of any notice of the Supplier at his/her usual or last place of abode or business will be sufficient evidence of its receipt by him/her.

21. Third parties

21.1 This Contract does not confer on any third party the right to enforce any term of the Contract.

22. Health and safety

22.1 Without prejudice to the generality of Clause 5.1(c), the Supplier will comply with all legal requirements under the Health and Safety at Work Act 1974 and any regulation or order made under it and any statutory amendment to it and any legal requirements of the European Union and international agreements applicable to the Goods and/or Services.

23. Illegality

23.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

24. Waiver

24.1 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

25. Law

25.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.