

1 Interpretation

1.1 In these Conditions:

"Conditions"

means the standard terms and conditions of purchase set out in this document, and includes any special terms and conditions agreed in writing between the Parties;

"Confidential Information"

means information data and material of any nature which either Party may receive or obtain from each other or from any third party in connection with the operation of the Contract and which at the time of disclosure is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence, and all information that is otherwise imparted in confidence, including information which (i) comprises Personnel Data or Sensitive Personal Data (as both terms are defined in the Data Protection Act 1998); (ii) the release of which is likely to prejudice the commercial interests of the Commission or the Provider respectively; or (iii) which is a trade secret;

"Contract"

means the contract for the purchase of the Goods and/or the supply of the Works or Services by the Provider to the Commission and is comprised of the Conditions herein and the Commission's Specification and the Provider's offer that the Commission has accepted and, if required by the Commission, additional Special Conditions drawn up by the Commission.

"Commission"

means the Commission for Equality and Human Rights;

"Delivery Address"

means the address stated on the Purchase Order or if not so stated, any of the Commission's offices as instructed by Commission at any time during the term of the Contract;

"Equality Acts"

means the Equality Act 2006, the Equality Act 2010 and any statutory modification or re-enactment thereof or any other law relating to discrimination in employment or in the provision of goods, facilities and services;

"Goods"

means any such goods as are to be supplied by the Contractor or sub-contractors under the Contract as specified in the Specification.

"IPR"

means all present and future copyright, design right, database right and other intellectual property rights throughout the world for the whole term thereof including all extensions and renewals and the right to register any trade mark, patents and design rights in any part of the world;

"Party/Parties"

means individually or collectively as applicable either the Commission and/or the Provider;

"Pre-existing IPR"

means any IPR (embedded in any work or materials arising from the provision of the Goods, Works or Services supplied under the Contract) vested in or licensed to the Provider by the third party owner of any IPR prior to or independently of performance by the Provider of its obligations under the Contract;

"Price"

means the price of the Goods, Works or Services;

"Provider"

means the supplier of the Goods, Works or Services, as stated in the Purchase Order;

"Purchase Order"

means the Commission's purchase order issued in relation to the Goods, Works or Services.

"Services"

means the services described in the Specification including any deliverables (or

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any variation of the services, including additional services agreed between the Parties in accordance with the Contract) which shall be provided in accordance with the Contract.

"Specification"

means the Commission's requirements in relation to the Goods, Works or Services and the Providers offer in response to the requirements, including any plans, drawings, data or other information.

"Special Conditions"

means additional conditions that may be incorporated into the Contract as provided under clause 2.3 below.

"Staff"

means the Provider's employees, servants, sub-contractors or agents used to supply the Goods or perform the Works or Services.

"Works"

means the works described in the Specification including any deliverables (or any variation of the services, including additional works agreed between the Parties in accordance with the Contract) which shall be provided in accordance with the Contract.

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 Basis of Purchase

2.1 On issue of a Purchase Order by the Commission, in relation to the Goods, Works or Services, these Purchase Order terms and conditions shall automatically apply and shall be binding on the Provider, unless these purchase order terms and conditions are not applicable because the Provider has been notified of and issued with (by the Commission) other standard terms and conditions of the Commission,

or has agreed in writing to alternative terms and conditions supplied by the Provider.

2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions which the Provider has sought to or subsequently seeks to impose on the Commission. For the avoidance of doubt any terms and conditions of the Provider, including without limitation any terms and conditions printed on any invoices or other documents submitted by the Provider to the Commission shall not be deemed incorporated into this Contract and shall be of no effect in relation to the provision of the Goods, Works or Services.

2.3 If the Commission requires the Provider to comply with additional Special Conditions, such conditions shall be in writing, drawn up by the Commission, and shall be deemed to be part of this Contract. Unless otherwise expressly stated by the Commission any Special Conditions included in the Contract shall take precedence over the terms and conditions herein to the extent that there is any conflict between any of the terms herein and the provisions in the Special Conditions.

2.4 No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Parties.

2.5 Any goods supplied by the Provider that do not correspond with the Commission's Specification or otherwise do not comply with provisions of the Contract, may be returned by the Commission to the Provider at the Provider's expense.

2.6 The Provider shall properly perform the Works or Services with the standard of skill, care and diligence which a competent and suitably qualified person performing such works or services could reasonably be expected to exercise and in accordance with all relevant statutory requirements and industry best practice.

2.7 The Provider and its Staff shall only undertake processing of Personal Data (as

defined under the Data Protection Act 1998 ("DPA")) if instructed by the Commission to act as "Data Processor" within the meaning of the "DPA" as part of the performance of the Provider's obligations under the Contract. As Data Processor, the Provider shall perform its obligations in accordance with and so as to enable the Commission to comply with its obligations under the DPA as "Data Controller" (within the meaning of the DPA). The Provider shall take appropriate technical and organisational measures to ensure that the Personal Data is processed securely. The Provider shall submit its data processing facilities for audit by the Commission and this may include supplying written particulars of the measures taken. No Sensitive Personal Data (as defined in the DPA) shall be processed by the Provider except as instructed in writing by the Commission and provided any such processing complies with the conditions for processing of such information required for compliance under the DPA.

3 Specification

3.1 The Provider shall comply with all applicable regulations and/or other legal requirements concerning the manufacture, packaging, and delivery of the Goods and/or performance of the Works or Services.

3.2 The Provider shall comply with the reasonable instructions of the Commission in connection with the provision of the Goods, Works or Services.

3.3 Timely provision of the Goods, Works or Services shall be of the essence of the Contract.

3.4 Without prejudice to the Commission's rights to terminate this Contract the Provider shall, at the Commission request, remedy any failure to comply with the Contract in accordance with the Commission's reasonable instructions, at no additional cost to the Commission.

4 Price and Payment

4.1 The Price of the Goods, Works or Services shall be as offered by the

Provider to the Commission and shall be inclusive of all labour costs, equipment, materials, charges for packaging, shipping, carriage, insurance and delivery, and any duties or levies other than Value Added Tax, unless otherwise expressly stated and in the Provider's quoted prices as accepted by the Commission.

4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Commission in writing.

4.3 The Provider's official invoice should be sent to the Commission within three months after delivery of the Goods, Works or the Services (unless otherwise expressly stated by the Commission) and must show:

- (a) the Commission's Purchase Order number;
- (b) an Invoice number;
- (c) description of the Goods or Works or Services delivered;
- (d) full details of price;
- (e) any discount allowed;
- (f) VAT if applicable.

Failure by the Provider, to submit invoices to the Commission within three months of delivery of the Goods or Services, as required in this clause 4 above, may result in the sums due under such invoices (referred to below as "Late Invoices"), not being recoverable from the Commission by the Provider, if and to the extent that the Commission has incurred any loss as a direct consequence of the late submission of invoices by the Provider. Such loss may arise in circumstances (including but not limited to) where the Commission has forfeited any right it has to recover the sums due under the Late Invoice(s) from a third party that has an arrangement with the Commission entitling the Commission to submit a claim ("a Claim") to that third party in order to be reimbursed for payments made by the Commission to the Provider in consideration of the Goods or Services supplied by the Provider under this Contract and a pre-condition for

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reimbursement is that the Commission submits the Claim within a specified time.

If the Commission under such arrangement loses the right to be reimbursed because it submits a Claim late and the reason for the late Claim is because the Provider has submitted a Late Invoice to the Commission, then the Commission's inability to obtain reimbursement would be a loss to the Commission which may be remedied in accordance with this clause 4.3, without prejudice to any other rights or remedies that the Commission may have.

If the Commission has forfeited its right to recover from the above mentioned third party, sums specified in a Late Invoice as a result of the Provider's submission of Late Invoice(s) to the Commission, the Commission may:

- (a) refuse to pay the sums due on the Late Invoice to the extent that the sum not paid by the Commission cannot be claimed back by the Commission from the third party under the arrangements between the Commission and the third party referred to above in this condition; and,
- (b) set off the sums the Commission is unable to claim back from the third party (as a result of the Provider's late submission of any invoice) against any sums that may become payable from the Commission to the Provider for the supply of the Goods and Services.

4.4 Unless otherwise agreed in writing by the Commission, the payment of the Price will be made within 30 days of receipt of a correct invoice, if the Goods, Works or Services have been delivered in accordance with the Contract.

4.6 The Commission shall be entitled to set-off against any invoice, any amount due from the Provider under this Purchase Order or under any other contractual arrangement with the Commission.

4.7 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly extra charge. All invoices containing Value Added Tax must conform

to the requirements of HM Revenue and Customs.

4.8 The Provider shall at the request of the Commission provide all information necessary to support the invoiced amount including all relevant time sheets, details of expenses incurred and invoices paid.

4.9 The Provider shall be wholly responsible for all applicable taxes including income tax and national insurance and other similar contributions or taxes (together "Taxes") which may be payable out of, or as a result of the receipt of, any monies paid or payable by the Commission under this Contract.

4.10 No payment of or on account of the Contract Price shall constitute any admission by the Commission as to the Provider's proper provision of the Goods, Works or Services.

5 Delivery

5.1 The Goods shall be delivered to and/or the Works or Services shall be performed within business hours at the Delivery Address on the date or within the period specified in the Specification or as otherwise specified or agreed by the Commission in writing.

5.2 Where the date of delivery of the Goods and/or performance of the Services is to be specified after the placing of the Purchase Order, the Provider shall give the Commission reasonable notice of the specified date.

5.3 A delivery note which specifies the number of the Purchase Order shall accompany each delivery or consignment of the Goods, and must be displayed prominently.

5.4 If the Goods are to be delivered and/or the Works or Services are to be performed by instalments, the Contract will be treated as a single contract and will not be severable.

5.5 The Commission 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 the Commission has had reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

5.6 The Provider shall supply the Commission in good time with any instructions or other information required to enable the Commission to accept delivery of the Goods and/or performance of the Works or Services.

5.7 The Commission shall not be required to return to the Provider any packaging or packaging materials for the Goods, whether or not the Goods are accepted by the Commission.

5.8 If the Goods are not delivered and/or the Works or Services are not performed on the due date then, without prejudice to any other remedy, the Commission shall be entitled to deduct from the Price or, if the Commission has already paid the Price, to claim from the Provider an amount equal to the additional costs incurred by the Commission as a result of the delay.

5.9 Risk of damage to or loss of the Goods shall pass to the Commission upon delivery to the Commission in accordance with the Contract.

5.10 The property in the Goods shall pass to the Commission upon delivery, unless payment for the Goods is made prior to delivery, where it shall pass to the Commission once payment has been made and the Goods have been appropriated to the Contract.

5.11 While on the Commission's premises the Provider shall comply with the Commission's rules and regulations relating to the Premises.

6 Quality Assurance

6.1 The Provider shall operate a self-regulatory system of quality assurance and quality measures relating to the Contract in addition to any quality requirements in the Specification which ensures that the Goods, Works or Services are provided in accordance with the requirements of the

Contract and as part of this requirement, the Provider shall check that information, data or software supplied pursuant to the Contract is fit for the purpose for which the Commission intends to use it.

7 Warranties and Liability

7.1 The Provider warrants to the Commission that the Goods:

- (a) Will be of sound materials and first class workmanship;
- (b) Will be equal in all respects to the samples, patterns, description or specification provided or given by either Party;
- (c) Will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended);
- (d) Will be free from defects in design, material and workmanship; and
- (e) will comply with all statutory requirements and regulations relating to the sale of the Goods.

7.2 The Provider warrants to the Commission that the Services or Works will be performed by appropriately trained and qualified personnel, with due care and diligence, and to the standards which would reasonably be expected from a skilled and experienced provider engaged in the provision of services similar to the Services under the same or similar circumstances.

7.3 The Provider will indemnify the Commission in full against the following:

7.3.1 all loss, liability, damages, costs, expenses (including legal expenses) or injury whatsoever and whenever arising caused to the Commission, or for which the Commission may be liable to third parties due to defective workmanship or unsound quality of the Goods, Works or the Services supplied;

7.3.2 all claims in respect of death or injury, howsoever caused, to any of the employees, or those of the agent or subcontractors, of the Provider, while in or about the Commission's sites, works or other places of business;

7.3.3 any consequential loss or damage sustained by the Commission for which the Commission may be liable, as a result of the failure of the Provider to supply the materials or perform the Works or Services in accordance with the terms of the Contract.

7.4 Without prejudice to any other remedy, if any of the Goods, Works or Services are not supplied or performed in accordance with the Contract, then the Commission shall be entitled:

7.4.1 to require the Provider to repair the Goods or to supply replacement Goods and/or remedy any failure to perform the Works or Services in compliance with the Contract within 7 days or such other period specified by the Commission; or

7.4.2 at the Commission's sole option and whether or not the Commission has previously required the Provider to repair the Goods or to supply any replacement Goods and/or to remedy any failure to perform Services, to treat the Contract as discharged by the Provider's breach and require repayment of any part of the Price which has been paid.

8 Termination

8.1 The Commission shall be entitled to terminate the Contract without liability to the Provider by giving written notice to the Provider at any time if:

8.1.1 the Provider makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

8.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Provider; or

8.1.3 the Provider dies, or ceases, or threatens to cease to carry on business; or

8.1.4 the Provider does anything improper to influence the Commission to give the

Provider any contract or commits an offence under the Prevention of Corruption Acts 1889 to 1916; or the Bribery Act 2010.

8.1.5 the Commission reasonably believes that any of the events mentioned above is about to occur in relation to Provider and notifies the Provider immediately.

8.2 For the avoidance of doubt, where the Commission terminates the Contract in accordance with the provisions of Condition 8.1, the Provider shall compensate the Commission for any losses suffered as a result of this.

8.3 The Commission may terminate the Contract at any time on giving the Provider not less than one months notice.

8.4 On the expiry or termination of this Contract (however arising), the Provider shall deliver up to the Commission all documents, formulae, papers, drawings, software, data, specifications, reports, notes, programs, portfolios, equipment, materials of any sort, identity cards and keys which were furnished by the Commission to the Provider, or which were prepared by or on behalf of the Provider for the Commission in the course of providing Goods, Works or Services under this Contract.

9. Intellectual Property Rights

9.1 Subject to Pre-existing IPR, all IPR created by the Provider as a result of performing the Goods, Works or Services, ("Contract Generated IPR") shall be owned by the Commission and the Provider shall enter into such documentation and perform such acts as the Commission may request to properly vest such Contract Generated IPR in the Commission. The Provider hereby assigns (by way of present assignment of future Contract Generated IPR) all Contract Generated IPR.

9.2 The Provider, hereby grants to the Commission a perpetual, royalty-free , irrevocable, non-exclusive, assignable , global licence for use , sub-licence and/or commercial exploitation of any Pre-Existing IPR in the Goods, Works or and/or

Services, together with the ability to sub-licence the same.

9.3 The Provider agrees to indemnify and keep indemnified the Commission against any costs, claims, proceedings, expenses and demands arising from the use, application, supply or delivery of any process article, matter or thing supplied under the Contract that would constitute or is alleged to constitute any infringement of any IPR including third party's IPR.

10. Confidentiality

10.1 Subject to requirements by law, including, without limitation, under the Freedom of Information Act 2000 ("the FOIA") and the Environmental Information Regulations 2004 ("EIR") , and of this Condition 10, any Confidential Information supplied by the Commission to the Provider or vice versa shall be kept confidential and shall only be used by the Provider for the performance of its obligations under the Contract.

10.2 The Provider shall use all reasonable efforts to assist the Commission to comply with such obligations as are imposed on the Commission by the FOIA and the EIR including providing the Commission with reasonable assistance in complying with any request for information (in connection with the Goods, Works or Services) served on the Commission under the FOIA or the EIR.

10.3 Upon expiry or termination of the Contract for whatever reason, the Provider shall either, immediately destroy, or at the Commission's written request, immediately return to the Commission, any Confidential Information provided to it pursuant to the Contract.

10.4 To enable the Commission to comply with transparency obligations that apply to the Commission as a public body, notwithstanding any other term of this Contract, the Provider hereby gives his consent for the Commission to publish the Contract in the public domain in its entirety, including from time to time agreed changes to the Contract. The Commission may prior to such publication , remove any content of

the Contract that would satisfy the legal tests for exempt information under the FOIA and the DPA, which includes commercially sensitive information and information which is provided in confidence.

11 General

11.1 The Provider shall be prohibited from transferring, assigning or sub-letting, directly or indirectly, to any person or persons whatever, the whole or any portion of this Contract without the written permission of the Commission.

11.2 No waiver by the Commission of any breach of the Contract by the Provider shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.3 The Provider shall not give, nor offer to give anyone employed by the Commission an inducement of any kind, or any gift that could be perceived by others to be a bribe. Any such action will constitute a breach which is considered incapable of remedy.

11.4 The Provider and its Staff involved in the supply of Goods or Works or Services under the Contract shall comply with the Commission's policies relevant to the performance of the Provider's obligations under the Contract and which have been made known to the Provider. Such policies shall include without limitation the Commission's health and safety and security policies including the minimum mandatory security controls detailed at Appendix A to the Contract. The Provider warrants and undertakes that the staff engaged in performing the Contract shall have satisfactorily completed the Baseline Personnel Security Standard (BPSS) which requires verification of

- (a) identity
- (b) employment history
- (c) nationality and immigration status; and
- (d) unspent criminal convictions.

If the Provider is a sole trader the Provider will co-operate with the Commission in providing the verification information which

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the Commission may require to ensure that the Provider meets the BPSS.

11.5 If any provision of these Conditions is held to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

11.6 The Provider shall not issue any press release or make any public statement concerning the Commission, its employees, agents, Commissioners, the Goods, Work or Services without the prior written consent of the Commission, nor shall the Provider without the prior written consent of the Commission, advertise or disclose to third parties that it is providing Goods, Works or Services to the Commission.

11.7 The Provider shall, and shall use reasonable endeavours to ensure that its Staff shall, at all times, act in a way which is compatible with the Convention Rights within the meaning of Section 1 of the Human Rights Act 1998 and shall comply with the Equality Acts.

11.8 Acceptance of this Purchase Order will be deemed to bind the Provider to these Conditions and no Goods, Works or Services shall be supplied or performed by the Provider, its employees, agents or representatives, except in accordance therewith.

11.9 These Contract Conditions constitute the entire understanding between the Parties relating to the subject matter of the Contract and, save as may be expressly referred to or referenced herein, supersede all prior representations, writings, negotiations or understandings with respect hereto, except in respect of any fraudulent misrepresentation made by either party.

11.10 Save for the Parties, no person shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Purchase Order and/or these Conditions.

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

11.12 Notices given under the Contract shall be given in writing and shall be served (i) by delivery to the receiving Party, effecting immediate service, (ii) by post, effecting service on the second following business day, (iii) by email, effecting service either after four hours if within accepted working hours or on the following business day.

11.13 The Parties agree to submit to the jurisdiction of the English courts and agree that the Contract is to be governed and construed according to English law.

11.14 Nothing in this Contract shall be construed as creating a partnership, joint venture, contract of employment or a relationship of principal and agent between the Commission and the Provider

11.15 The following terms shall survive the termination or expiry of the Contract:

Conditions 1, 7,9,10, 11 and, without limitation to the foregoing, any other provision of the Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry.

Appendix

Mandatory Minimum Security controls

1.1 This Appendix A describes the minimum security controls necessary to ensure the Commission and the Provider comply with relevant Government, contractual and legal obligations for the protection and security of Commission assets, including any Confidential Information processed by the Provider on behalf of the Commission.

1.2 For the Purposes of the Contract and unless otherwise agreed in writing, the Commission's primary operational contact for all information security matters, including the reporting of any breach or unauthorised disclosure of Confidential Information processed by the Provider, shall be the Officer named on the Purchase Order. If the Officer named on the Purchase Order cannot be contacted then the Provider shall contact the Officer for whom they are providing the Goods or Services

1.3 For the Purposes of this Contract, the Provider's primary contact for all information security matters shall be any employee of the Provider named in any correspondence with the Commission or as notified in writing.

1.4 The Provider shall notify the Commission's primary operational contact within a reasonable time frame, of no longer than 1 working day, of any actual or suspected breach of security to the information processed on behalf of the Commission.

1.5 The Provider shall ensure that all of its employees and any individuals with access to Commission Confidential Information have been appropriately vetted in-line with the Baseline Personnel Security Standard, or equivalent measures. As a minimum such vetting shall include verification of identity, nationality, employment history and checks for unspent criminal convictions. The Commission reserves the right to ask for evidence of such checks or undertake additional checks if it deems necessary to do so.

1.6 The Provider shall implement the following security controls as the minimum mandatory measures for the protection of all Confidential Information, including any Personal Data (as defined by the Data Protection Act):

1.6.1 Access to Confidential Information shall only be available on a strict "Need to know" basis and this arrangement shall be extended to any sub-contracted third parties.

1.6.2 Ensure that all processing of Confidential Information, whether in paper or electronic format, is suitably protected at all times using industry standard controls and procedures, including, but not limited to:

- (a) Suitable logon names and complex passwords for IT systems
- (b) Public access computers or computers shared with family members shall not be used for processing Confidential Information.
- (c) Data held on laptops or portable equipment (e.g. tablets) shall be encrypted using commercial-grade products and services.
- (d) Paper records and physical assets shall be locked away out of sight when not in use.

1.6.3 The Provider shall refrain from using the following methods for transferring Confidential Information without prior written agreement from the Commission.

- (a) Removable media, including CD, DVD, memory sticks.
- (b) Public and \ or consumer-grade internet-based storage facilities.

1.6.4 Consider the requirement for data backup facilities and seek written agreement from the Commission prior to the implementation of any backup regime.

1.7 The Provider shall transfer all Confidential Information in digital format through methods and protocols agreed with the Commission; specifically:

- (a) Email correspondence shall be to recognised addresses of the Supplier and the Commission. All Commission

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addresses use the
"@equalityhumanrights.com" domain.

- (b) Online data capture facilities shall require strong encryption mechanisms (e.g. HTTPS) to protect any Confidential Information in transit or at rest. The Supplier agrees that to provide to the Commission further technical details of the security controls implemented, if requested by the Commission.

1.8 The Provider shall ensure that all Confidential Information in hardcopy format is transferred through methods agreed with the Commission; specifically:

1.8.1 Royal Mail First Class post or equivalent shall be used for all general correspondence.

1.8.2 The envelope or outer wrapping shall be labelled "FOR ADDRESSEE ONLY" with the Supplier's return address visible on the reverse.

1.8.3 Courier packages shall be double-wrapped with the full name and address of the Commission's primary operational contact clearly stated on both wrappings.

1.8.4 The Supplier shall be responsible for ensuring all packages are received by the Commission's primary operational contact listed above

Ends