

The National Oceanography Centre Purchase Order Terms and Conditions

1. The National Oceanography Centre

The National Oceanography Centre is a Company Limited by Guarantee with Charitable Status registered in England and Wales under the Company number: 11444362 Charity number: 1185265 whose registered office is at European Way, Southampton, SO14 3ZH, United Kingdom. In this document, any references to 'the NOC' is a reference to The National Oceanography Centre.

2. Definitions - In these conditions:

- (i) "Contractor" means the individual, firm or company with whom the NOC enters into the Contract (including where the context requires any of the Contractor's sub-contractors);
- (ii) "Contract" means unless otherwise clearly stated, the agreement between the NOC and the Contractor comprising of as a minimum these Terms and Conditions and the Purchase Order, but also as specified by the NOC, the NOC's request for quotation, any specification, the Contractor's quotation, and any other documents or content referred to therein;
- (iii) "Purchase Order" means the Unit4 Purchase Order issued by the NOC to the Contractor for the supply of Supplies and/or the provision of Services;
- (iv) "Premises" means a specified location(s) where the Supplies shall be delivered or the Services shall be performed;
- (v) "Services" means (other than Supplies) all the services that the Contractor is required to perform under the Contract;
- (vi) "Supplies" means anything (other than Services) supplied or to be supplied to the NOC under the Contract;
- (vii) "Working Day" means a day other than a Saturday or Sunday or bank or public holiday;
- (viii) "Data Protection Legislation" means for the periods for which they are in force, all laws giving effect or purporting to give effect to the Data Protection Act 2018, or otherwise relating to data protection, including the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner, in each case as amended or substituted from time to time;
- (ix) "Intellectual Property Rights" means patents, inventions, trademarks, design rights, logos, copyright, database rights, and similar rights whether registerable or not.
- (x) "Personal Data" means the personal data (as defined in the Data Protection Legislation) which relates to or originates from the NOC, or any of the NOC's employees, contractors or customers and which is processed by or on behalf of the Contractor under the Contract;

3. Contractor's Obligations

- (i) The Contractor shall supply the Supplies and/or perform the Services specified on the Purchase Order. Supplies may be returned at the Contractor's expense if they do not correspond with the Purchase Order.
- (ii) All Supplies shall be delivered, carriage paid, to the Premises specified and only between 8:30am and 5:00pm on a Working Day, unless otherwise agreed in writing by the NOC. A delivery note must accompany the Supplies and must specify the quotation reference and the type of Supplies being delivered. It must also include the NOC Purchase Order number. The Purchase Order number must also be printed on the external delivery packaging.
- (iii) The cost of packaging will be deemed to be included in the cost of the Supplies. If the Contractor requires packaging to be returned, it will be returned at the Contractor's expense.
- (iv) The Contractor warrants to the NOC that the Supplies shall be of satisfactory quality and fit and sufficient for purpose for which such Supplies are ordinarily used and for any particular purpose made known to the Contractor by the NOC.
- (v) The Supplier warrants, represents, undertakes and guarantees that the Supplies supplied under the Agreement shall be free from defects (manifest or latent), in materials and workmanship and remain so for 12 months after delivery.
- (vi) Without prejudice to any other right or remedy available to the NOC, the NOC shall be entitled to reject any Supplies and/or Services that fail to comply with the Agreement and the Contractor shall reimburse to the NOC the price paid for such Supplies and/or Services in full or at the NOC's request, the Contractor shall at its own cost

promptly repair, replace or rectify the Supplies and/or Services to the NOC's reasonable satisfaction.

(vii) If the Contractor is providing Services to the NOC, the Contractor shall properly perform the Services on a Working Day specified in the Purchase Order 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 industry best practice.

4. Invoices and Payment

The Contractor shall submit an invoice within 30 days of meeting any set milestone to the satisfaction of the NOC or otherwise within 30 days of supplying the Supplies and/or performing Services to the satisfaction of the NOC. The invoice shall show the amount of VAT payable and the Purchase Order number. Save where an invoice is disputed, the NOC shall pay the Contractor within 30 days of receipt of an invoice unless otherwise agreed in writing between the Contractor and NOC. The Contractor will send the invoice via email to noc_ap@noc.ac.uk for payment, failure to do so could result in a delay in payment and the NOC will take the date of receipt of a valid invoice to this email address as the start of the 30 day payment term.

5. Data Protection

Both parties must comply with their respective obligations under the Data Protection Legislation which arise in connection with the Contract.

Both the Contractor and the NOC acknowledge that for the purposes of Data Protection Legislation, the NOC is the data controller and the Contractor is the data processor of any Personal Data.

The Contractor will ensure that its staff and sub-contractors shall comply with all Data Protection Legislation in relation to any Personal Data processed.

6. Sub-contracting

The Contractor shall not sub-contract or transfer, assign, novate, charge, or otherwise dispose of, in any part, their obligations under the Contract without the prior written consent of the NOC. Where the Contractor enters into a contract with a supplier or sub-contractor for the purpose of performing the their obligations, in any part, under the Contract, it 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.

7. Intellectual Property Rights

Subject to any prior rights of the Contractor 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 obligations under the Contract by the Contractor shall vest in the NOC unless prior agreement has been made in writing by both the NOC and the Contractor.

8. Confidentiality

The Supplier shall treat all information belonging to the NOC (including details of the Supplies and/or the Services and the existence of this Agreement) as confidential and shall safeguard it accordingly, and shall not disclose any such information without the prior written consent of the NOC.

9. Termination

Without prejudice to any other rights and remedies available to it, the NOC may terminate the Contract if the Contractor fails to fulfil its obligations or commits a breach under the Contract, the NOC may terminate the Contract forthwith by written notice if the Contractor has not remedied the breach within 10 Working Days or other timescale specified by the NOC after issue of a notice specifying a breach. The NOC may recover from the Contractor any reasonable costs necessarily and properly incurred by the NOC as a consequence of termination.

Whenever under the Contract any sum or sums of money shall be recoverable from or payable by the Contractor to the NOC, 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 agreement or contract with the NOC.

10. Indemnity and Insurance

(i) The Contractor shall fully and promptly indemnify NOC against all direct losses, injury, damages, costs or liabilities or proceedings

incurred by the NOC as a result of any act, default or negligence of the Contractor or any of its employees or sub-contractors in carrying out its obligations under the Contract except and to the extent it is due to the act, default, or negligence of the NOC or any of its employees.

(ii) If the obligations under the Contract is not expressly one of employment, then this means the Contractor is not an employee, worker, agent or partner of the NOC, and the Contractor shall be fully responsible for all their own tax and national insurance contributions. In any failure to pay any such taxes, the Contractor shall pay in full any money or fine that the NOC incurs as a result of the Contractor failing to pay such taxes.

(iii) Any obligation by the Contractor to comply with this clause 10 shall survive without limitation and until such time as any of these obligations are complied with.

(iv) The Supplier shall at all times have sufficient insurances in place and provide written evidence to the NOC upon request.

12.3 The Customer may terminate the agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this *Clause 12*.

11. General

- (i) **Force majeure:** Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent the Supplier from supplying the Supplies and/or Services for more than 4 weeks, the NOC shall have the right, without limiting its other rights or remedies, to terminate the Contract with immediate effect by giving written notice to the Supplier.
- (ii) **Notices:** Any notice or other communication required to be given under or in connection with the Contract shall be in writing and shall be delivered to the other party by prepaid first class post.
- (iii) **Waiver:** No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Contract.
- (iv) **No partnership:** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership of any kind between the parties.
- (v) **Contracts (Rights of Third Parties) Act 1999:** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- (vi) **Variation:** Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the NOC.
- (vii) **Severance:** To the extent that any provision in the Contract shall in whole or in part be held to be unlawful or unenforceable under any enactment or rule of law, the remainder of the provisions shall stand in full force and effect.
- (viii) **Governing law and jurisdiction:** The Contract shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

12. Compliance with Anti-Slavery and Human Trafficking Laws

12.1 In performing its obligations under the agreement, the Supplier shall:

- (i) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations [and codes] from time to time in force including but not limited to the Modern Slavery Act 2015; and
- (ii) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
- (iii) include in contracts with its direct subcontractor and suppliers provisions which are at least as onerous as those set out in this *Clause 12*.
- (iv) notify the Customer as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this agreement.
- (v) maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Customer in connection with this agreement; and permit the Customer and its third party representatives to inspect the Supplier's premises and records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this *Clause 12*.

12.2 The Supplier represents and warrants that the date of this agreement it has not been convicted of any offence involving slavery or human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.