

PORT OF BLYTH TERMS AND CONDITIONS FOR PURCHASE ORDER CONTRACTS AND SERVICES

1.0 DEFINITIONS

- 1.1 **"Contract"** means the contract between the Port and the Contractor comprising the Purchase Order, these Conditions complete with any special conditions set out in the Purchase Order.
- 1.2 **"Contractor"** means the individual, firm or company accepting the Purchase Order.
- 1.3 **"Contractor's Person"** means the named person within the contract acting on behalf of the Contractor.
- 1.4 **"Consent"** means the permission or agreement of the Port for the Contractor to do something.
- 1.5 **"Completion"** means the action of completing / finishing the work described in the Purchase Order.
- 1.6 **"Completion Date"** is that date of which the works described in the Purchase Order are to be completed.
- 1.7 **"Purchase Order"** means the Port's purchase order and the Appendices including the Specification, to purchase the Services as set out in the port's Purchase Order form.
- 1.8 **"Price"** means the sum to be paid to the Contractor/ Supplier for the execution of the goods / Services in as set out in the in the Purchase Order.
- 1.9 **"Port Representative"** means the person(s) named as such in the Contract who has the authority to commit the Port in all matters under the Contract and who shall be responsible for issuing to and receiving from the Contractor all information, instructions and decisions.
- 1.10 **"Services(s)"** means the action of carrying out work(s) as instructed by The Port, described in the Purchase Order.
- 1.11 **"Site"** means the lands and other places which the Services as described in the Purchase Order are to be executed
- 1.12 **"The Port"** means Blyth Harbour Commission, trading as "The Port of Blyth", South Harbour, Blyth, Northumberland, NE24 3PB.

2.0 BASIS OF PURCHASE

- 2.1 The Port's Purchase Order constitutes an offer to purchase the Services subject to the terms of the Contract.
- 2.2 The Purchase Order shall be deemed to be accepted via the Contractor issuing written acceptance, signing and returning a copy of the Purchase Order or any act by the Contractor consistent with the Services.
- 2.3 These conditions are the only conditions on which the Port is prepared to deal with the Contractor and they shall govern the Contract to the entire exclusion of all other terms or conditions.

3.0 VARIATIONS

- 3.1 The Contractor shall carry out any changes or variations to the Services as instructed by the Port Representative. No variation shall vitiate the Contract. Variations shall only be expressed by way of a written document signed by the Port Representative.

4.0 CONTRACTORS GENERAL OBLIGATIONS

- 4.1 The Contractor shall take full responsibility for the adequacy, stability and safety of all its operations and methods necessary for the satisfactory and safe performance of the Services, and those of the Contractor's Persons.
- 4.2 The Contractor shall ensure that there is no trespass by the Contractor on or over any adjoining or neighbouring property arising out of the Services and shall take all reasonable safety measures to prevent damage or injury to any persons including the occupiers of adjoining or neighbouring properties.

For full terms and conditions please see the Port of Blyth Website. <http://portofblyth.co.uk>

5.0 CONTRACTOR WARRANTIES

- 5.1 In carrying out the Services the Contractor warrants and represents to the Port that: It will carry out and complete the Services using Best Industry Practice; and that the Contractor is fully experienced, qualified, financed and organised to perform the Contract in accordance with Best Industry Practice.
- 5.2 The Contractor will comply with all statutory requirements and regulations relating to the supply of Services.

6.0 PROGRAMME OF SERVICES

- 6.1 The Contractor shall make regular and diligent progress to ensure that the Services reach Completion by the Completion Date.
- 6.2 If the Purchase Order provides for the Services to be subject to tests on Completion the Services shall not be deemed to have achieved Completion until all such tests have been performed and have been passed to the satisfaction of the Port.
- 6.3 If the Services are delayed by reason of the following: any delay impediment, prevention or default by the Port or the Port's persons that prevents the Contractor performing the Services, any Variation to the Contract; and/or a Force Majeure Event; then the Contractor may give written notice to the Port Representative to the effect that it considers itself entitled to a reasonable extension of time for Completion of the Services.

7.0 DEFECTS AND COMPLETION

- 7.1 If, upon testing in accordance with clause 6.2, or at any other time before completion, the Port shall decide that any services are not in accordance with the Contract, or otherwise defective, the Port shall as soon as reasonably practical give to the Contractor notice in writing of the decision, specifying particulars of the defect, and so far as may be necessary require the Contractor to rectify the Services.

8.0 MAINTENANCE PERIOD

- 8.1 The Contractor shall at its own cost for a period of twelve months (or such later date as shall be specified in the Purchase Order) from the date of Completion maintain the Services in good and proper order, repair and condition, and shall rectify all arising from improper or defective materials (including defective design) or workmanship during this period upon receipt of a notice from the Port specifying any defects, the Contractor shall as soon as practicable (or immediately in the case of an emergency) rectify such defects to the satisfaction of the Port.

9.0 SITE RESPONSIBILITIES, REGULATIONS AND SAFETY

- 9.1 The Contractor shall at all times whilst on the Port's premises or on Site comply with and ensure that the Contractor's Persons comply with all health and safety legislation and with all security and safety regulations and rules of those premises or Site.
- 9.2 The Port shall afford access to so much of the Site as is necessary for the performance of the Services.
- 9.3 The Port operates a Permit to Work scheme for all Contractors working within the Port premises. The Port Representative shall issue a Permit to Work, prior to any work commencing, detailing the works to be carried out and the duration of which they are to be on site. The Contractor must have this on site at all times. The Contractors shall ensure all staff working under the Contract receive a Port Safety Induction.
- 9.4. The Contractor is responsible for submitting copies of risk assessments, method statements, and insurance certificates and where required licences and training certificates for the Services to be provide, prior to any work being undertaken.
- 9.5 The Contractor shall be responsible for the suitability and safety of any plant and equipment or temporary works used. No plant / equipment or temporary works shall be used which may be unsuitable, unsafe or liable to cause damage or injury.
- 9.6 Upon Completion the Contractor shall remove from the Site all plant / equipment, accommodation, rubbish and temporary works

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of any kind, and leave the Site and the Services in a clean and tidy condition to the satisfaction of the Port.

10.0 HIRE OF PORT SERVICES, PLANT AND EQUIPMENT

10.1 Any labour or equipment provided by the Port to the Contractor are under the Contractor's responsibility and instruction. Under such circumstances the Contractor must hold adequate insurance to cover the services provided and satisfy themselves that any equipment hired is suitable for their requirements.

10.2 The Contractor will be liable for any costs, claims and damages that may arise.

10.3 Commence of the hire of services is deemed as an acceptance by the Contractor of all terms and conditions included within Purchase Order. Other than where specified to the contrary to the Purchase Order, services are also provided under C.P.A (Construction Plan-hire Association) conditions. These hire conditions supersede and hold priority over any terms and conditions provided or supplied by the Contractor.

11.0 CONTRACTORS INDEMNITY

11.1 The Contractor shall indemnify the Port and hold the Port harmless from and in full against all liabilities, losses, claims, demands, proceedings, damages, costs and expenses and breach of any warranty in relation to the Services or any applicable laws.

12.0 INSURANCE

12.1 The Contractor shall take out and maintain (with reputable insurers lawfully carrying on business in the EU) all insurances sufficient to cover its liabilities and obligations under the Contract and which are required by applicable laws.

12.1.1 Employers Liability insurance: not less than £10,000,000 for each and every claim:

12.1.2 Public Liability insurance: not less than £5,000,000 for each and every claim.

13.0 PRICE

13.1 The Price shall be as stated in the Purchase Order and, unless otherwise so stated, shall be: fixed, unless otherwise agreed in writing by the parties; exclusive of any applicable VAT (which shall be shown separately on all invoices as a strictly net charge); and inclusive of all taxes other than VAT.

14.0 PAYMENT AND TERMS OF PAYMENT

14.1 Unless otherwise stated in the Purchase Order, the Contractor shall submit an invoice at the end of each month for all Services supplied during that month under the Contract and not previously invoiced. The Contractor's invoice shall quote the Port's Purchase Order number.

14.2 Unless otherwise provided in the Purchase Order, the Port shall make payment to the Contractor's invoice inclusive of VAT within 30 days of the end of the month in which the Port receives a proper invoice.

14.3 All invoices are to be sent direct to accountspayable@portofblyth.co.uk.

15.0 CONFIDENTIALITY

15.1 Information, which would be regarded confidential by a reasonable business person, supplied by either party to the other shall be maintained in confidence by the recipient taking the same care to do so as it would take in respect of its own confidential information.

15.2 Contractors working on behalf of the Port must ensure all data, including that related to all stakeholders including clients and customers is held and maintained in a secure environment and in a way that complies with local and EU legislation on data protection and handling, including GDPR.

16.0 QUALITY ASSURANCE

16.1 The Port and its nominated representatives shall have the right at any time to carry out quality audits of the Contractor and the Contractor's Persons.

17.0 CERTAIN RIGHTS AND REMEDIES OF DEFAULT

17.1 If any Services are not supplied or performed in accordance with the Contract, then the Port shall be entitled to: require the Contractor to supply replacement Services in accordance with the Contract within seven (7) days and/or provide additional labour and/or take such other measures as the Port reasonably deems necessary to the Port to remedy the issue; or the Port can terminate the Contract (or any part) without liability and purchase substitute goods and/or services elsewhere and recover from the Contractor any loss or additional costs incurred.

18.0 LIMITATION ON LIABILITY

18.1 Nothing in these Conditions shall limit or exclude either party for: (1) death or personal injury caused by its acts or omissions (whether negligent or otherwise), or the acts or omissions of its employees, agents or sub-contractors, (2) fraud or fraudulent misrepresentation; or (3) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982.

19.0 FORCE MAJEURE

19.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from a Force Majeure event.

20.0 TERMINATION AND CONSEQUENCE OF TERMINATION

20.1 The Port shall be entitled to terminate the Contract in respect of all or part only of the Services by giving notice to the Contractor at any time prior to supply without incurring any liability to the Contractor, by giving not less than seven (7) days' notice in writing.

20.2 On termination of the Contract for any reason, the Contractor shall immediately deliver to the Port all the Port's materials, goods, data, information and documentation. If the Contractor fails to do so, then the Port may enter the Contractor's premises and take possession of them.

21.0 AGENCY AND SUBCONTRACTING

21.1 Nothing in the Contract shall be construed as establishing the Contractor or any of the Contractor's Persons as the Port's employee.

21.2 The Contractor shall not transfer, assign, charge, dispose of or sub-contract all or part of the Contract without the consent of the Port. The Contractor shall ensure that any sub-contract(s) entered into contains such provisions of these Conditions as should be made applicable to any such sub-contract(s).

22.0 ANTI-BRIBERY AND CORRUPTION

22.1 The Contractor shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

23.0 GOVERNING LAW, DISPUTES AND JURISDICTION

23.1 In the event of any dispute or difference between the parties arising in connection with the Contract which is not promptly resolved the following provisions shall apply: the senior managers of each party shall, within seven (7) days of a written request from one party to the other, meet in an effort to resolve such dispute or difference.

23.2 The Contractor shall proceed with the Contract with all due diligence whilst any matter is under dispute without prejudice to all rights, remedies or claims which the Contractor or the Port may have in respect of such dispute.

23.3 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by UK Law and the parties submit to the exclusive jurisdiction of the English courts.

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